



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION

**REQUEST FOR PROPOSALS # 31701-03054
AMENDMENT # 2
FOR INFORMATION SECURITY ASSESSMENT
SERVICES**

DATE: July 20, 2011

RFP # 31701-03054 IS AMENDED AS FOLLOWS:

1. This RFP Schedule of Events updates and confirms scheduled RFP dates.

EVENT	TIME	DATE	UPDATED / CONFIRMED
1. RFP Issued		June 15, 2011	CONFIRMED
2. Disability Accommodation Request Deadline	2:00 p.m.	June 22, 2011	CONFIRMED
3. Pre-proposal Conference	2:00 p.m.	June 24, 2011	CONFIRMED
4. Notice of Intent to Propose Deadline	2:00 p.m.	June 28, 2011	CONFIRMED
5. Written "Questions & Comments" Deadline	2:00 p.m.	July 6, 2011	CONFIRMED
6. State Response to Written "Questions & Comments"		July 20, 2011	CONFIRMED
7. Proposal Deadline	2:00 p.m.	July 28, 2011	CONFIRMED
8. State Completion of Technical Proposal Evaluations		August 9, 2011	CONFIRMED
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	August 10, 2011	CONFIRMED
10. State Evaluation Notice Released and RFP Files Opened for Public Inspection	2:00 p.m.	August 12, 2011	CONFIRMED
11. Contract Signing		August 24, 2011	CONFIRMED
12. Contractor Contract Signature Deadline	2:00 p.m.	August 31, 2011	CONFIRMED

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

	QUESTION / COMMENT	STATE RESPONSE
1	<p>Although I DO understand that the State of TN is under a short time constraint to process the RFP # 31701003054 for Information Security Assessment and Security Consulting Services and award a new contract, especially since the current agreement for such services is coming to an end, [Vendor Name Deleted] respectfully requests that the State consider providing a modest extension of time to the RFP Proposal Due Date.</p> <p>Extending the Due Date for two weeks, until Monday, August 8th, 2011 will provide some much valued time for us to prepare our proposal to best meet the State of Tennessee's needs. This additional time will also help to ensure that the State of TN receives the most valuable information from the customer reference who we will ask to respond as well.</p> <p>As an alternate consideration, even providing an extension of one additional week, to Monday, August 1st, 2011, would be appreciated, since, as you know, the summer months can provide obstacles due to family vacations that some key personnel may have planned.</p>	<p>Amendment 1 to the RFP amended RFP Section 2, Schedule of Events to extend the Written "Questions & Comments" Deadline and the Proposal Deadline.</p> <p>Amendment 1 is available at either of the following websites:</p> <p>http://state.tn.us/finance/oir/pcm/rfps.html</p> <p>www.state.tn.us/finance/rds/ocr/rfp.html</p>
2	<p>In addition to my request for an extension to the Proposal Due Date below, I would also like to request that an extension to the "RFP questions Due Date" of this Friday, July 1st be granted for 1 week, until Friday, June 8th.</p> <p>Alternatively, if this one week extension is not possible, I would request that we receive an extension until at least Wed, July 6th. I'm sure that little work on reviewing questions and preparing responses will get accomplished over the Independence Day Holiday Weekend, so perhaps the alternate date will create very little change to the overall time line.</p>	<p>See the State's response to Question 1 above.</p>
3	<p>Would you please forward me a copy of the <i>State of Tennessee Enterprise Architecture</i>.</p>	<p>The document has been sent as requested; other interested vendors may obtain a copy as described in RFP Section 1.1.5.</p>
4	<p>We would like to ask for additional explanation concerning the terms and conditions of the RFP and a vendor's ability to negotiate any of those Ts and Cs.</p> <p>In my conversation with Jane Chittenden, she stated that [Vendor Name Deleted] would not be able to point to Terms and Conditions under our existing Customer Agreement with the State of TN (that was signed in 2008 and expires in 2013) to satisfy any potential concerns with the terms and conditions listed under this RFP. We would like to have further explanation as to why this is</p>	<p>The agreement to which the vendor refers was entered into by General Services, which is subject to a different set of statutes (TCA Title 12, Chapter 3), rules, and policies than those of Finance and Administration (F&A). Request for Proposals (RFP) #31701-03054 falls under the statutes, rules, and policies of F&A (see TCA § 12-4-109).</p> <p>F&A contends that each solicitation is a stand-alone activity, which, in many cases, has unique requirements specific to that solicitation. Therefore, F&A does not recognize prior</p>

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	not a viable option given that it would be a more effective and easier way for both [Vendor Name Deleted] and the State of TN, especially if any issues that may be listed in the RFP have already been addressed under the existing [Vendor Name Deleted] Customer Agreement.	agreements that may have been entered into and recognizes only those terms and conditions that appear in the <i>pro-forma</i> Contract, as amended, that appears in the relevant F&A solicitation document, in this case RFP #31701-03054.
5	As directed in section 1.1.5 on page one of the RFP #31701-03054, please accept this written request for a copy of the State of Tennessee Enterprise Architecture (Technical Architecture). Please let me know how we can obtain a copy of this document.	See the State's response to Question 3 above.
6	For the purpose of this RFP, will the State of Tennessee provide any special consideration(s) for bidders who are Minority-owned Business Enterprises (MBE), Women-owned Business Enterprises (WBE), 8(a) Certified Disadvantaged Business Enterprises, and/or Small Business Enterprises (SBE)?	The Evaluation Team will evaluate the vendor's commitment to diversity by reviewing the vendor's response to RFP attachment 6.2, Section B, Item B.15. This is one of 17 questions that make up the final Section B score for a given vendor.
7	Does the State intend to identify only one contractor whose consultants will perform projects for various agencies in the State of Tennessee or is the goal to identify a consultant pool comprising various consultants from various contractors?	The State will award a single contract for all services to one Contractor.
8	For the purpose of the RFP (with regards to requirement A.5 on page 19 of the RFP), we tried to request a credit report from Dun & Bradstreet. However, they mentioned that they do not provide such information directly to companies.	The State is not familiar with Dun & Bradstreet policies regarding vendor access to reports; however, the State does receive Dun & Bradstreet reports regularly from proposers in response to RFP Attachment 6.2, Section A: Mandatory Requirements, Item A.5.
9	Could you please guide us towards a specific credit rating bureau (or a list of bureaus) that we can obtain the said credit report from?	The State has received reports from multiple entities in the past, including Dun & Bradstreet, Standard & Poor's, Moody's and Fitch, and Experian. This list is not meant as a complete list of acceptable entities or as a recommendation for the Proposer to use any particular credit bureau. Any report received will be evaluated in accordance with RFP Attachment 6.2, Section A, Item A.5.
10	What are the diversity goals for this contract?	See the State's response to Question 6 above.
11	Can a minority firm registered in other states begin the registration process with the State of TN now and be considered appropriate to meet the TN diversity goals?	Vendors may contact the Governor's Office of Diversity Business Enterprise (GoDBE) directly, as allowed by RFP Section 1.4.2.2.a, for assistance available to diversity vendors, including questions regarding registration. The GoDBE website is: http://www.tennessee.gov/businessopp/index.html
12	Will the State accept a discussion of other means	No, the State does not intend to deviate from the

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	of enforcing service quality other than those stated in the pro forma contract?	requirements expressed in the <i>pro forma</i> Contract. Also, please see RFP Section 3.3.3 for information concerning the prohibition against the vendor proposing "alternate services."
13	<p>I was just sent the attached RFP from one on my minority partners, however I see that we missed the "intent to propose" deadline,</p> <p>Is it too late now for [Vendor Name Deleted] to put in our notice of intent?</p>	<p>The vendor has missed the Notice of Intent deadline; therefore, the State will be unable to add the company to the Notice of Intent to Propose list and send direct communications regarding the RFP.</p> <p>However, please note that RFP Section 1.8 states that the vendor is still eligible to propose on the Information Security Assessment Services RFP as the Notice of Intent to Propose "...creates no obligation and is not a prerequisite for making a proposal..."</p> <p>The vendor can monitor communications regarding the RFP at either of the following web sites</p> <p>http://state.tn.us/finance/oir/pcm/rfps.html</p> <p>www.state.tn.us/finance/rds/ocr/rfp.html</p>
14	<p>Could you clarify if you want five (5) references in total or are three (3) references that meet the criteria sufficient?</p> <p>B.17. Reference:</p> <p>Provide customer references from individuals (who are <u>not</u> current or former officials or staff of the State of Tennessee) for projects similar to the services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> two (2) of the larger accounts currently serviced by the Proposer, <u>and</u> three (3) completed projects 	<p>In accordance with RFP Attachment 6.2, Section B, Item B.17, a complete response to this item will include a total of five (5) references: "two (2) of the larger accounts currently serviced by the Proposer, and three (3) completed projects."</p>
15	<p>Would you be able to provide an estimate of time (percentage) that an auditor would be expected to be on-site vs. working remotely?</p>	<p>Due to variability in the types of requests for Information Security Assessment Services, the State cannot estimate the time that will be devoted to on-site versus remote work, or the amount of work that may be done for Non-State Participants (see <i>pro forma</i> Contract Section A.17).</p> <p>However, the State is amending the <i>pro forma</i> Contract by adding language that will allow the State to reimburse the Contractor for travel expenses incurred pursuant to this Contract, in accordance with the State's Comprehensive Travel Regulations. This should remove one of the major unforeseen expenses and facilitate a reasonable and accurate Cost Proposal.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section C.4,</p>

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		attached below.
16	<p>If a contractor does not have employees in each category (e.g. any Level I staff), how do we complete the forms?</p> <p>Reference: A.2 (page 38)</p> <p>c. In each of the above classifications, the Contractor must be prepared to supply Consultants with varying levels of experience, as follows:</p> <p>Level I – Less than five (5) years of experience; Level II – From five (5) to less than ten (10) years of experience; Level III – From ten (10) to less than fifteen (15) years of experience; Level IV – Fifteen (15) or more years of experience.</p>	<p>The Proposer must submit costs for <u>all</u> levels of staff, and for <u>all</u> five years of such services. As stated in RFP Attachment 6.3, Preamble, “. . . the Proposer should not leave any proposed cost cell blank. . . .”</p> <p>It is the Proposer’s business decision as to how the Proposer chooses to provide costs for each level of staff. One possible option would be for the Proposer to acquire sufficient new staff to be able to meet all of the experience level requirements. Or, alternatively, the Proposer might choose to provide lower-level services using higher-level resources; for example, the Proposer might perform Data Loss Prevention (DLP) Consultant I work using a consultant that has the experience to qualify as a Data Loss Prevention (DLP) Consultant II. However, in this event, the State would compensate the vendor for such services at the rates proposed for a DLP Consultant I.</p> <p>Obviously, the vendor <u>cannot</u> choose to have higher-level services provided by a lower-level consultant.</p>
17	<p>Clarification Item:</p> <p>Our insurance carrier has suggested the following edit to be more accurate:</p> <p>Reference Page 53:</p> <p>E 5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.</p> <p>a. The Contractor shall maintain, at minimum, the following insurance coverage:</p> <p>(1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.</p> <p>(2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability insured <u>contracts</u> and completed operations/products) with a bodily injury/property damage combined</p>	<p>The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section E.5, attached below.</p>

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	<p>single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.</p> <p>b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.</p>	
18	<p>Would it be possible to obtain a Word version of the above referenced RFP?</p> <p>Some of the requirements need to be detached from the pdf version and sent to 3rd parties (e.g. PROPOSAL REFERENCE QUESTIONNAIRE).</p> <p>Many thanks</p>	<p>Yes, a Word version is available to download from the following website:</p> <p>http://state.tn.us/finance/oir/pcm/rfps.html</p>
19	<p>I just saw an RFP for Information Security Services for the State of TN that is due in August. It looks like the intent to bid was due June 28th though. Do you think it's possible [Vendor Name Deleted] would still be able to submit a proposal?</p>	<p>See the State's response to Question 13 above.</p>
20	<p>I was asked to review the request for proposal listed in the subject line. In section 1.1.5 there is a requirement to execute within the context of a document referred to as the "Technical Architecture". It is noted in the section that a contractor may request a copy of the document. I would like to know if the requirement to submit a "written request" includes email or if the request had to be presented in the form of a hard-copy document?</p>	<p>E-mail is sufficient; see also the State's response to Question 3 above.</p>
21	<p>We plan to submit a proposal for the Bid RFP # 31701-03054 for a Security Assessment. Could you please forward the technical architecture? I appreciate your assistance.</p>	<p>See the State's response to Question 3 above.</p>
22	<p>Thank you for including [Vendor Name Deleted] in your RFP for Information Security Assessment Services. The services requested are at the core of what we do and we would be pleased to provide these services for the State of Tennessee. Unfortunately, we must respectfully decline your request for proposal. After much consideration, we have determined that without separate reimbursement for reasonable consultant travel, it would be impossible to estimate the costs in advance and thus to provide a competitive bid.</p>	<p>The State is amending the <i>pro forma</i> Contract by adding language that will allow the State to reimburse the Contractor for travel expenses incurred pursuant to this Contract, in accordance with the State's Comprehensive Travel Regulations. This should remove one of the major unforeseen expenses and facilitate a reasonable and accurate Cost Proposal.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section C.4, attached below.</p>

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23	<p>The Contractor respectfully requests that The State of Tennessee, Department of Finance and Administration provide an opportunity for the Contractor to clarify at time of proposal submission the following terms and conditions.</p> <p>1.1 <u>Statement of Procurement Purpose</u>-The following section under 1.1:</p> <p>1.1.4,</p> <p>3.3. <u>Proposal & Proposer Prohibitions</u>- The following sections under 3.3:</p> <p>3.3.1., 3.3.2.</p> <p>4.3. <u>State Right of Rejection</u>- The following section under 4.3:</p> <p>4.3.2.</p> <p>5.3. <u>Contract Award Process</u>- The following sections under 5.3:</p> <p>5.3.5.</p> <p><u>CONTRACT</u></p> <p>A. <u>SCOPE OF SERVICES</u>- The following sections under A:</p> <p>A.1 1. <u>Contractor Consultant Performance and Replacement</u>.</p> <p>a.) through d.) and e).i.</p> <p>A.17. Provision of Service to Non-State Particip</p> <p><u>C. PAYMENT TERMS AND CONDITIONS</u>- The following section under C.</p> <p>C.2. Compensation Firm, C.6. Payment of Invoice, C.7. Invoice Reductions, C.8. Deductions</p> <p><u>D. STANDARD TERMS AND CONDITIONS</u>- The following section under D:</p> <p>D.4. Termination for Cause</p> <p><u>E. SPECIAL TERMS AND CONDITIONS</u>- The following section under E:</p> <p>E.6. Confidentiality of Records</p> <p>E.7. HIPAA Compliance</p> <p>E.8. State Ownership of Work Products</p> <p>E.9. Incorporation of Additional Documents.</p> <p>E.12. Limitation of Liability</p>	<p>In accordance with RFP Section 1.6, the Written Questions and Comments process is the only appropriate vehicle to ask about, or comment specifically on, any terms and conditions and/or to suggest proposed changes to <i>pro forma</i> Contract terms. In some cases, when the vendor has requested <u>specific</u> language revisions before the Written Questions and Comments Deadline, the State may change some provisions, based on Written Questions and Comments, and amend the RFP prior to the Proposal Deadline.</p> <p>With regard to this Question 23, the vendor has not provided any specifics about the language it would like to see changed. The State does <u>not</u> intend to make any changes to the Sections that the vendor has referenced, other than those that are specifically detailed within this Amendment 2.</p> <p>Also, the State does not intend to clarify or negotiate any Terms and Conditions after the apparent award has been made, other than those that are specifically detailed within this Amendment 2. The State expects the Proposer to sign the <i>pro forma</i> contract as it exists after any amendments are made prior to the Proposal Deadline.</p> <p>However, in rare cases the State may agree to language modifications suggested by the best-evaluated Proposer, as long as such changes are in the State's best interest. See RFP Sections 5.3.5 and 5.3.6.</p>

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	E.13. Hold Harmless E.14. Breach E.15. Partial Takeover E.16. Disclosure of Personal Identity Information	
24	Further, in accordance with Section 1.1.5 the Contractor requests that the State provide a copy of the Technical Architecture document.	See the State's response to Question 3 above.
25	[Vendor Name Deleted] respectfully requests that we be given the opportunity to submit follow up questions or comments requesting additional clarification, in response to the written answers posted by the State, that are in response to the written questions submitted by the deadline today.	The State does not agree to this request.
26	Do you know what percentage of the work will be directly for the State versus for "non-State participants"?	See the State's response to Question 15 above.
27	Can you provide information on the funding levels for the previously awarded Information Security Assessment Services contract that was awarded to BT INS?	<p>The State executed 9 SOWs over 3 years (an average of 3 per year). The total invoiced amount for these SOWs was approximately \$216,228.</p> <p>The State anticipates that the spending authority will remain at its current level of \$400,000 per year under the new Information Security Assessment Services Contract. However, this authority does not constitute any type of volume guarantee or minimum purchase quantity.</p>
28	Given the short timeframe between Answers to Questions and the Due Date for the proposal, would it be possible to extent the due date to allow ample time to address issues that may arise from the Q&A process?	See the State's response to Question 1 above
29	Can the State provide electronic versions (MS Word and Excel) of the Proposal Statement of Certification, Questionnaire, and Pricing Tables?	See the State's response to Question 18 above; an Excel file is not needed as the proposer is only required to enter the individual hourly rates and is not required to perform the Evaluation Cost calculations.
30	Can the State provide information from the Pre-Proposal Conference for those that were not able to attend?	No minutes or notes were taken during the Pre-Proposal Conference.
31	Does the State plan on awarding only one contract for this procurement?	See the State's response to Question 7 above.
32	Item B.13. from the RFP requests estimates for hours to be worked by key staff on the contract. Can the State clarify what is requested in this item?	<p>The State is amending Item B.13 to remove the requirement for the vendor to provide estimates of individual hours to be worked. Otherwise, the requirements of Item B.13 remain as originally written.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.2, Item B.13, attached below.</p>

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33	[a] What is the estimated volume of work (man-hours)/year or [b] historical level of effort in this area for State of TN?	<p>[a] The State has provided estimates of anticipated hours per year in RFP Attachment 6.3, Proposed Cost table, Column labeled "Evaluation Factor." The numbers that appear in this column are the estimated hours that will be used per year for each job classification and experience level. However, note that, as stated in the "Notice" that precedes the table, these numbers do not constitute any type of volume guarantee or minimum purchase quantity.</p> <p>[b] The anticipated hours referenced in this Question 33, Item [a], above were based on historical information, and therefore provide some indication of the historical level of work.</p> <p>See also the State's response to Question 27 above.</p>
34	I understand that if we subcontract out portions of the work to other companies that those companies will need to be approved by the State (either as a part of our bid or at some point in the future). However, my company utilizes several independent contractors on 1099's to perform work on behalf of our company. Do we need to list all of those individuals and have those approved by the State or will those be "defacto" approved if we are awarded the contract?	The State does not need to approve 1099 workers that perform work under this Contract. However the Contractor is still responsible for all services provided under this Contract.
35	Our team would like to review the State of Tennessee Enterprise Architecture to ensure we have hit all the points. Would you be able to forward me a copy?	See the State's response to Question 3 above.
36	Section 5.3.6 indicates that the "State may entertain limited negotiation at its discretion..." Will the State please confirm that negotiation of contract details will occur post award?	See the State's response to Question 23 above.
37	Attachment 6.1, provision 3 requires a proposer to certify that it "accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., Pro Forma Contract, " which directly contradicts the presumption that the parties will negotiate. Proposing Vendor wishes to point out that it could not sign the Statement of Certifications and Assurances in its current form without noting that its signature is subject to the negotiation of mutually acceptable terms.	<p>See the State's response to Question 23 above.</p> <p>In accordance with RFP Attachment 6.2, Item A.1, failure to sign the <i>Proposal Statement of Certifications and Assurances</i> <u>without exception or qualification</u> may result in the disqualification of the vendor's Proposal.</p>
38	Attachment 6.1, provision 4 states that bidders must certify acceptance that "all proposal responses are part of the contract." Can the State clarify that it means all of the successful bidder's – not all bidders' – proposal document/responses will be part of the contract?	Yes, the State's intent is that only the successful vendor's Proposal will become a part of the Contract.

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39	<p>Bidder takes exception to the statement in Section 1.4.9 that: "Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is within the discretion of Proposers to independently verify any information before relying thereon." The State is in the best position to know the specifics of its systems and security risks, with access to systems and information that bidders are not privy to, as such bidders must be able to rely on the accuracy of that information in order to submit the proposal. Please confirm the State is willing to agree that the parties may re-negotiate terms, rates and scope subsequent to Bidder's onsite due diligence and detailed review of documentation should there be a material impact based on incorrect information provided in the RFP, RFP amendment or any other communications relating to this RFP.</p>	<p>The current language only applies to the RFP process. Proposers have no recourse if their failure to be awarded a contract is due to their reliance on erroneous information provided by the State.</p> <p>The State does not intend to negotiate any terms and conditions or scope items, except as specifically detailed in this Amendment 2. There will be no negotiated increased in rates from those originally proposed by the vendor.</p> <p>Any SOW containing erroneous information that is material to the contractor's performance is subject to amendment, in accordance with pro forma Contract Section A.10.f., as amended.</p>
40	<p>Please clarify that the State does not intent, as some of the language in the RFP seems to suggest, to impose a "time is of the essence" clause recognizing that it is contrary to the intention of producing a productive and collaborative working environment and is not a commercially reasonable provision, particularly for a contract with the scope and terms of this one.</p>	<p>There is no "time is of the essence" clause in the contract. If the timing of performance of certain work is deemed by the State to be critical, it will be specified in the SOW for the work.</p>
41	<p>We would want to discuss Bidder rights related to termination of services, including but limited to: (1) in the event of termination, Contractor should be provided payment for all services provided in accordance with the Contract thru the date of termination and reimbursed for any expenditures or purchases that cannot be cancelled; and (2) "fair compensation" defined to mean payment for services rendered at Contractor's then current rate or a percentage of the total related to the work completed for the Deliverables and or Work Product in flight.</p>	<p>The State believes the current language in the contract is sufficient to fairly compensate the contractor for the work and services it performs prior to contract termination, including the costs it rightfully incurs in preparation for cancelled work and services.</p>
42	<p>We would want to establish specific written acceptance criteria for services and deliverables that would be clear, mutually acceptable, objective, and where appropriate, quantifiable, that would supersede or be deemed to mean "adequate Contractor performance," or similar subjective acceptance criteria indicated in the RFP. In conjunction with establishing Acceptance Criteria, we would like to discuss a mutually agreeable process and time frame for the review and approval of Deliverables.</p>	<p>Any additional details, if required, regarding the processes and time frames for review and approval of deliverables will be provided in the project-specific Statements of Work.</p>

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43	Notwithstanding any statements in the RFP to the contrary, the State retains responsibility for determining whether the services and deliverables provided by Bidder under the Contract, including any revised business processes implemented pursuant to the Contract, meet the State's requirements and applicable internal guidelines.	<p>The State assumes that the vendor is requesting that the stated language be added to the RFP or <i>pro forma</i> Contract.</p> <p>The State does not agree to make the requested change.</p>
44	Bidder will be entitled to rely on all decisions and approvals of authorized State representatives in connection with the Contract, and any acceptance shall be final, binding and serve to confirm that Contractor has met its related contractual obligations.	<p>The State assumes that the vendor is requesting that the stated language be added to the RFP or <i>pro forma</i> Contract.</p> <p>The State does not agree to make the requested change.</p>
45	Notwithstanding any statements to the contrary, Bidder's obligation with respect to third party products will be to pass through such rights and warranties as are contained in the applicable license, usage or service agreement with the applicable third party and such rights and warranties shall supersede any other provisions with respect to the applicable third party products.	<p>The State assumes that the vendor is requesting that the stated language be added to the RFP or <i>pro forma</i> Contract.</p> <p>The State does not agree to make the requested change.</p> <p>The State understands that the vendor may use third-party products in the provision of these services; however, the State does not anticipate that any third-party products will be delivered to the State under this Contract.</p> <p>The Contractor will remain primarily responsible to the State for the warranties specified in the Contract, which shall be remain unaffected by any warranties related to third-party products used by the Contractor in the performance of the services.</p>
46	Bidder would expect that State and any other vendor retained by the State related to this Project to be subject to confidentiality obligations similar to those put forth in the RFP.	The State's confidentiality obligations are controlled solely by State law whereas bidder and vendor obligations are controlled by State law and the Contract.
47	Bidder would have to amend the Insurance provisions contained in the second paragraph of Section D.14 to read, in its entirety, as follows: "The Contractor, being an independent contractor and not an employee of the State, agrees to carry general liability and other forms of insurance as indicated herein, on the Contractor's employees, and to pay all applicable taxes incident to this Contract."	The State does not agree to make the suggested change at this time. However, in the event that the Proposer submitting the question is the successful Proposer for this RFP, the State agrees to review the suggested change to Section D.14, prior to finalizing the Contract, and may make the change, provided that it is in the State's best interest.
48	Bidder would have to amend the Insurance provisions contained in Section E.5 to read, in its entirety, as follows: "E.5. Insurance. The Contractor shall carry the following forms of insurance. a. The Contractor shall maintain, the following insurance coverage: (1) Workers' Compensation/Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars	The State does not agree to make the suggested change at this time. However, in the event that the Proposer submitting the question is the successful Proposer for this RFP, the State agrees to review the suggested change to Section E.5, prior to finalizing the Contract, and may make the change, provided that it is in the State's best interest.

	QUESTION / COMMENT	STATE RESPONSE
	<p>(\$1,000,000) per accident or disease by employee and disease policy limit of employers' liability coverage whichever is greater. (2) Commercial General Liability (including personal injury & tangible property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate. b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Policy Coverage; Insurance Company & Policy Number; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability required herein; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract."</p>	
49	6.6 Pro Forma Contract Section. A.1. – Please replace references to Scope of Services” with “the Contract.”	The State does not agree to make the requested change.
50	6.6 Pro Forma Contract. Section C.3. – Please provide a provision in the Contract that invoices for approved deliverables will be paid within 30 days.	The State does not agree to make the requested change. However, the State is subject to T.C.A. 12-4-701, et seq., which sets certain statutory requirements on the State regarding prompt payment of the State's vendors.
51	6.6 Pro Forma Contract. Section C.4 – please clarify that “The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.”	See the State's response to Question 22 above.
52	6.6 Pro Forma Contract. Section C.8 Deductions: Please revise as follows: “The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor by the State under this Contract any amounts which are or shall become actually due and payable to the State by the Contractor under this Contract.	The State does not agree to make the requested change.
53	6.6 Pro Forma Contract. Section E.3. Please modify this paragraph as follows: “The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all authorized services in accordance in all material respects with this Contract and the applicable MOU as of the termination date. Upon such termination, neither party shall have right to recover from the	The State does not agree to make the requested change.

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	State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.	
54	6.6 Pro Forma Contract. Section D.4. Termination for Cause: -The first sentence should be replaced with the following: "If the Contractor materially breaches any terms of this Contract, the State shall have the right to terminate the Contract."	The State does not agree to make the requested change.
55	6.6 Pro Forma Contract. Section D.4.: - Contractor also needs a parallel right to terminate for material breach by the State. Thus, we request this provision be made mutual.	The State does not agree to make the requested change.
56	6.6 Pro Forma Contract. Section D.4.a.: Please delete from (a) the last two sentences "The State will not consider a request to cure contract performance where there have been repeated problems with respect to identical or similar issues, or if a cure period would cause a delay that would impair the effectiveness of State operations. In circumstances where an opportunity to cure is not available, termination will be effective immediately." In an engagement of this magnitude and complexity, the Contractor is entitled to a reasonable opportunity to cure any material breach. We also request that the minimum cure period be revised to be 10 business days and not calendar days.	The State does not agree to make the requested change.
57	6.6 Pro Forma Contract. Section D.4.a.: In the second line, delete the word "an" and substitute the phrase "a reasonable" and in the fourth line before the phrase "the Termination Notice" insert the phrase "receipt of".	<p>The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section D.4.a, attached below.</p>
58	6.6 Pro Forma Contract. Section D.7. Nondiscrimination: The Contractor respectfully requests that the "proof" requirement be removed, as it is unclear what such proof would consist of.	The State does not agree to make the requested change.
59	6.6 Pro Forma Contract. Section D.9. Records; Please modify this paragraph as follows: "The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to billing, invoicing or money received under this Contract by Contractor, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time during Contractor's regular business hours and upon reasonable prior written notice by the State, the Comptroller of the Treasury, or their duly appointed representatives".	The State does not agree to make the requested change.

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60	6.6 Pro Forma Contract. Section D.5. Subcontracting: Contractor requests the following clarification: subcontractor records are not required where Contractor is billing the State for any approved Subcontractors' services.	The State does not agree to make the requested change.
61	6.6 Pro Forma Contract. Section D.11.: Please modify this paragraph as follows: "The Contractor's activities conducted on the State's premises and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives at any reasonable time during Contractor's regular business hours and upon reasonable prior written notice by the State, the Comptroller of the Treasury, or their duly appointed representatives."	The State does not agree to make the requested change.
62	6.6 Pro Forma Contract. Section E.8.: State Ownership of Work Products: Regarding paragraph (b), any code or documentation to be delivered separate from the Work Product will be itemized in the Statement of Work, so this should be removed or clarified to be applicable only to that which is "specific in the applicable Statement of Work".	The State does not agree to make the requested change.
63	6.6 Pro Forma Contract. Section E.8.: State Ownership of Work Products: The following should be added: "The assignment and license grant in this section do not apply to any software, hardware, items, products, or materials that are subject to a separate license agreement between the State and a third party, including, without limitation, [CONTRACTOR]."	The State does not agree to make the requested change.
64	6.6 Pro Forma Contract. Section E.8.: Incorporation of Additional Documents: Please revise this section to incorporate the following: Please revise so that Contractor's Proposal must take precedence above the Request for Proposal. Please remove: "d. any technical specifications provided to proposers during the procurement process to award this Contract;" Please incorporate Statements of Work should be added and take precedence over the Proposal and the RFP with respect to the Services under the applicable Statement of Work.	<p>The State does not agree to change the order of precedence, with the exception of adding Memoranda of Understanding/Statements of Work to the order of precedence list.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section E.9, attached below.</p>
65	6.6 Pro Forma Contract. Section E.7 HIPAA Compliance: Paragraph (a) should be modified as follows: "Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of its performance of the Services under this Contract." Also, Paragraph (c) should be modified as follows: "The State and the Contractor will negotiate in good faith any	The State does not agree to make the requested change.

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	documents, including but not limited to business associate agreements...[cont'd as is]"	
66	6.6 Pro Forma Contract. Section E.12.: Please replace with the following "The parties agree that the Contractor's, its subcontractors, and their respective personnel aggregate liability under or relating to this Contract or the Services shall be limited to an amount equal to the fees paid under this Contract (as may be amended), and in no event shall Contractor, its subcontractors or their respective personnel be liable for any loss of use, data, goodwill, revenues or profits (whether or not deemed to constitute a direct Claim), or any consequential, special, indirect incidental, punitive or exemplary loss, damage, or expense (including, without limitation, lost profits and opportunity costs), relating to this Contract or the Services, PROVIDED THAT, in no event shall this section limit the liability of the Contractor for internal torts or intentional misconduct, criminal acts, bad faith, or fraudulent conduct, or for Contractor's indemnity obligation under Section E.11."	The State does not agree to make the requested change.
67	6.6 Pro Forma Contract. Please add the following as Section E.17. in the contract: State Responsibilities. The State shall cooperate with Contractor hereunder, including, without limitation, providing Contractor with reasonable facilities and timely access to data, information and personnel of the State. The State shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of data and information provided to Contractor for purposes of the performance of these Services. The State acknowledges and agrees that Contractor's performance is dependent upon the timely and effective satisfaction of the State's responsibilities hereunder and timely decisions and approvals of The State in connection with the Services. Contractor shall be entitled to rely on all decisions and approvals of the State.	The State does not agree to make the requested change.
68	6.6 Pro Forma Contract. Please add the following as Section E.18. in the Contract: Limitation of Warranties. This is a services engagement. Except for the warranties expressly provided in [Sections/Attachments [] of this Contract, Contractor warrants that it shall perform the services in good faith and in a professional manner. Contractor disclaims all other warranties, either express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose.	The State does not agree to make the requested change.
69	General. Please clarify any preference to a Nashville-based program team or alternative	The State cannot indicate any generalized preferences for on-site, off-site, or off-shore work, since this will depend on the requirements

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	models including "off-site or "off-shore".	<p>of each SOW. However, the State reserves the right to specify the venue for the work that is in the State's best interest for any given SOW.</p> <p>The State is amending <i>pro forma</i> Contract Section A.4 to clarify work site requirements. See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section A.4, attached below.</p> <p>See also the State's response to Question 15 above.</p>
70	6.6 Pro Forma Contract. Section A.1.: Please modify this paragraph as follows: "The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall substantially meet all service and delivery timelines as specified by this Contract."	The State does not agree to make the requested change.
71	6.6 Pro Forma Contract. Section A.2.: Please modify this paragraph as follows: "The purpose of this Contract is to provide a source for Information Security Assessment and Consulting Services (ISACS). The Department of Finance & Administration (F&A) Office for Information Resources (OIR) will manage the Contract. The services provided by this Contract will be offered to State agencies through OIR. Agencies interested in using the services will contact OIR and may assist in developing the Statements of Work. The Contractor must include OIR in any and all discussions with State agencies regarding services provided under this Contract. All Statements of Work (SOWs) will be initiated and issued by OIR and all Memoranda of Understanding (MOUs) will be approved and signed by OIR and Contractor."	<p>The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section A.2, attached below.</p>
72	6.6 Pro Forma Contract. Section A.2.a: Please modify this paragraph as follows: "Under the terms of this Contract and at the State's request, the Contractor will provide vulnerability assessment and penetration testing services, application source code review services, information security program assessment services, system design services, data loss prevention services and limited data and network forensics services, to the State using the consultants listed in Contract Section A.2.b, below (collectively, "Consultants") or as agreed to by Contractor and the State."	The State does not agree to make the requested change.
73	6.6 Pro Forma Contract. Section A.4.: Please modify this paragraph as follows: "The SOW will specify the work location(s) of Contractor consultants. Contractor consultants shall be based on-site and perform their work at State-operated, maintained, and managed facilities in Nashville, Tennessee, or Contractor consultants	<p>The State does not agree to make the requested change.</p> <p>The State is amending <i>pro forma</i> Contract Section A.4 to clarify work site requirements. See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section A.4,</p>

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	shall be based off-site and perform their work at a Contractor location. The State reserves the right to request on-site or off-site work, whichever is deemed to be in the best interest of the project and agreed to by Contractor.”	attached below. See also the State’s response to Question 15 above.
74	6.6 Pro Forma Contract. Section A.6.: Please delete the last sentence of this paragraph.	The State does not agree to make the requested change.
75	6.6 Pro Forma Contract. Section A.7.: Please modify this paragraph as follows: “The Contractor understands and agrees that the State has executed and may execute contracts with other parties for services the same as or similar to those described herein. The State understands and agrees that Contractor may perform services the same as or similar to those described herein for other Contractor customers.”	The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly. See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section A.7, attached below.
76	6.6 Pro Forma Contract. Section A.9.b.ii: Please modify this paragraph as follows: “Any additional deliverables as defined in the SOW and agreed to be provided by Contractor.”	The State does not agree to make the requested change.
77	6.6 Pro Forma Contract. Section A.9.f.ii: Please modify this paragraph as follows: “Any additional deliverables as defined in the SOW and agreed to be provided by Contractor.”	The State does not agree to make the requested change.
78	6.6 Pro Forma Contract. Section A.9.h.ii: Please modify this paragraph as follows: “Any additional deliverables as defined in the SOW and agreed to be provided by Contractor.”	The State does not agree to make the requested change.
79	6.6 Pro Forma Contract. Section A.9.j.ii: Please modify this paragraph as follows: “Any additional deliverables as defined in the SOW and agreed to be provided by Contractor.”	The State does not agree to make the requested change.
80	6.6 Pro Forma Contract. Section A.9.k.ii: Please modify this paragraph as follows: “Any additional deliverables as defined in the SOW and agreed to be provided by Contractor.”	The State does not agree to make the requested change.
81	6.6 Pro Forma Contract. Section A.10.b.: Please modify the second paragraph as follows: “If the Contractor agrees to propose on the applicable SOW, within the requested response period, the Contractor will respond to the SOW with a Project Proposal that includes the following: i. Project number from the SOW; ii. Contractor understanding of the services to be performed; iii. Workplan, including a project estimated timeframe, tasks, and resource loading; iv. Staffing plan, specifying the Consultant Classifications from Contract Section C.3 needed for the project and the estimated hours required for each Consultant Classification;”	The State does not agree to make the requested change. The State is seeking a vendor that is capable and willing to respond to <u>all</u> requests for security assessment services. It is not the State’s intent for the vendor to be able to reject certain SOW’s, at the vendor’s discretion. Therefore, the State is amending <i>pro forma</i> Contract Section A.10 to clarify that the Contractor must be responsive and responsible on all SOWs that the State releases. See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section A.10.d, attached below.

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82	6.6 Pro Forma Contract. Section A.10.d.: Please modify the second paragraph as follows: "The State will provide a copy of the MOU, containing signatures from the Office for Information Resources and the Contractor, to the Contractor which Contractor will countersign. Receipt of a fully executed MOU authorizes the Contractor to provide the requested services and the Contractor consultants to begin work. The State will not be liable to pay the Contractor for and the Contractor shall not be liable for the performance of any work performed prior to the Contractor's receipt of a fully executed MOU."	The State does not agree to make the requested change.
83	6.6 Pro Forma Contract. Section A.10.e.: Please modify the second paragraph as follows: "For each MOU, the Contractor will track the expenditures against the MOU maximum compensation, and will inform the State when expenditures are nearing either cap. If insufficient funds are remaining in the amount to complete the project, the Contractor will provide the State with a revised Project Proposal for completion of the project. The revised Project Proposal will include the same information requested in the original Project Proposal (see Contract Section A.10.b.), updated as needed to complete the project. It must also detail the reason(s) additional funds are required. The State, at its sole option, will either amend the MOU Maximum Compensation to accommodate completion of the project, in part or in whole, or direct the Contractor to cease work on the project for the State's convenience."	<p>The State does not agree to make the requested change. However, the State has amended RFP Attachment 6.8, <i>Draft Memorandum of Understanding</i> to clarify that termination of a given MOU does not mean that the State is terminating the entire Contract.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.8, <i>Draft Memorandum of Understanding</i>, attached below.</p>
84	6.6 Pro Forma Contract. Section A.11.a.: Please modify this paragraph as follows: "The Contractor shall select the Consultants to perform the services requested in the SOW. The State shall be the sole judge of the quality of services provided and the project progress achieved by the Contractor's consultants. The Contractor agrees to remove and replace at the Contractor's expense, consultants whom the State judges to be incompetent, careless, unsuitable or otherwise objectionable, or whose continued use is deemed contrary to the best interests of the State or deemed not to make substantial contributions to the project. The Contractor agrees not to charge the State for services performed which are not in accordance in all material respects with the description of such services set forth in the MOU."	The State does not agree to make the requested change.
85	6.6 Pro Forma Contract. Section A.11.b.: Please modify this paragraph as follows: "b. At the State's request, the Contractor will replace an individual that has voluntarily withdrawn or that the Contractor has voluntarily removed from	The State does not agree to make the requested change.

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	State assignment. Any requirement for such replacement will be at the State's sole discretion; the State is not obligated to accept replacement of removed or withdrawn consultants. The State will compensate the Contractor for services completed by the consultant in accordance in all material respects with the description of such services set forth in the MOU prior to voluntary withdrawal or removal."	
86	6.6 Pro Forma Contract. Section A.11.e.: Please delete sections i through iii.	The State does not agree to make the requested change.
87	6.6 Pro Forma Contract. Section A.15.: Please modify this paragraph as follows: "The State reserves the right, at the State's option, to request periodic meetings with Contractor management staff to discuss topics including, but not limited to, the following: general project direction, management, and coordination; State technical infrastructure and standards; SOW Clarifications; and time keeping and other project progress records. These meetings shall occur at a State location or via conference call as agreed to by the parties and shall be at no additional cost to the State."	<p>The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section A.15, attached below.</p>
88	6.6 Pro Forma Contract. Section A.17.: Please modify this paragraph as follows: "At the State's request and Contractor's express written consent, in Contractor's sole discretion, the Contractor shall provide the services described in this Contract to third parties, including federal and local government, K-12, and higher education institutions (collectively, —Non-State Participants)."	The State does not agree to make the requested change.
89	6.6 Pro Forma Contract. Section B.2.: Please modify this paragraph as follows: "The State reserves the right to request an extension to this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of a contract amendment signed by both parties. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment signed by both parties and shall be based upon payment rates provided in the original Contract."	<p>The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section B.2, attached below.</p>
90	6.6 Pro Forma Contract. Section C.1.: Please modify the first paragraph as follows: "Except for a breach of Section E.16 of this Contract, in no event shall the maximum liability of the State under this Contract exceed Written Dollar	The State does not agree to make the requested change.

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	Amount (\$Number) plus the aggregate amount of all MOUs. Except as otherwise agreed to by the parties, the payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor."	
91	6.6 Pro Forma Contract. Section C.3.a.: Please modify this paragraph as follows: "The Contractor's compensation shall be contingent upon the completion of units, milestones, or increments of service defined in section A in accordance in all material respects with the applicable MOU."	The State does not agree to make the requested change.
92	6.6 Pro Forma Contract. Section D.1.: Please modify this paragraph as follows: "Neither party is bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury)."	The State does not agree to make the requested change.
93	6.6 Pro Forma Contract. Section D.5.: In addition to the clarification above, please modify this paragraph as follows: "The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and —Records (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed and the State will not bring action against any such subcontractor directly."	The State does not agree to make the requested change.
94	6.6 Pro Forma Contract. Section D.6.: Please modify the first paragraph as follows: "The Contractor warrants that no part of the total Contract Amount shall be paid to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed by the Contractor or its subcontractor under this	The State does not agree to make the requested change.

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	Contract.”	
95	6.6 Pro Forma Contract. Section D.7.: In addition to the clarification above, please modify this paragraph as follows: “The Contractor hereby agrees and warrants that in the performance of this Contract no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.”	The State does not agree to make the requested change.
96	6.6 Pro Forma Contract. Section D.8.c.: Please modify this paragraph as follows: “The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time during Contractor business hours upon reasonable prior written notice by the State.”	The State does not agree to make the requested change.
97	6.6 Pro Forma Contract. Section D.8.d.: Please modify this paragraph as follows: “The Contractor understands and agrees that failure to comply with this section in the performance of this Contract may be subject to the applicable sanctions of Tennessee Code Annotated, Section 12-4-124, et seq. for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.”	The State does not agree to make the requested change.
98	6.6 Pro Forma Contract. Section D.12.: Please modify this paragraph as follows: “The Contractor shall submit brief, periodic, progress reports to the State as requested in the applicable MOU.”	The State does not agree to make the requested change.
99	6.6 Pro Forma Contract. Section D.14.: Please modify these paragraphs as follows: “The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, fiduciaries, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee	<p>The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly.</p> <p>See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section D.14, attached below.</p>

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	relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all taxes applicable to it incident to this Contract."	
100	6.6 Pro Forma Contract. Section D.16.: Please modify this paragraph as follows: "The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' reasonable control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause."	The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly. See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section D.16, attached below.
101	6.6 Pro Forma Contract. Section D.17.: Please modify this paragraph as follows: "The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of its work under this Contract."	The State agrees to make the requested change and has amended the <i>pro forma</i> Contract accordingly. See RFP # 31701-03054, Release # 2, RFP Attachment 6.6, <i>pro forma</i> Contract Section D.17, attached below.
102	6.6 Pro Forma Contract. Section D.19.: Please modify this paragraph as follows: "This Contract and, when executed by the parties, the MOUs are complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral."	The State does not agree to make the requested change. The State has amended the <i>pro forma</i> Contract to add MOUs/SOWs to the order of precedence list in Contract Section E.9. With this change, MOUs are included in the Contract by reference, rendering the requested change unnecessary. See the State's response to Question 64 above.
103	6.6 Pro Forma Contract. Section E.6.: Please modify these paragraphs as follows: "Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and necessary steps shall be taken by the Contractor to safeguard the confidentiality	The State does not agree to make the requested change.

	QUESTION / COMMENT	STATE RESPONSE
	<p>of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards and applicable professional standards. The Contractor's obligations under this section do not apply to information in the public domain or otherwise publicly available; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties."</p>	
104	<p>6.6 Pro Forma Contract. Section E.13.: Please modify these paragraphs as follows: "The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be physically injured or damaged to the extent such damage is directly and proximately as a result of negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to the performance of services under this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Article E.13. of this Contract. In the event of any such suit or claim, the Contractor shall give the State prompt notice thereof and shall provide all reasonable assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106."</p>	<p>The State does not agree to make the requested change.</p>
105	<p>6.6 Pro Forma Contract. Section E.14.: Please</p>	<p>The State does not agree to make the</p>

	QUESTION / COMMENT	STATE RESPONSE
	modify the first paragraph as follows: "A party shall be deemed to have breached the Contract if any of the following occurs: — failure to perform in all material respects in accordance with any term or provision of the Contract; — any act prohibited or restricted by the Contract, or — material violation of any warranty.	requested change.
106	Can the state provide an estimated range of number of SOWs that it expects to execute as part of this contract in a year? The bidders will need an estimate of the number of resources required and their ability to meet the demand prior to submitting the proposal.	<p>The only future SOW volume estimates of which the State can be reasonable sure are related to the SOWs for Quarterly and Annual security assessment reports. Therefore, the State would expect that there will be at least five (5) SOWs per year: four (4) quarterly ones; and one (1) annual one.</p> <p>However, these numbers are only estimates and are not in any way binding upon the State.</p>
107	We understand that the state had a service provider contract for similar services in the past. What is the historical spend in terms of number of projects, hours, and/or dollars for this contract for the past 2 years?	See the State's responses to Questions 27 and 33 above.
108	To help address "Objective 1: Provide Security Vulnerability Assessment and Penetration Testing Services", can the State describe the security vulnerability assessment and penetration testing tools (both infrastructure and application) available for use? Can the provider leverage the State licensed vulnerability assessment and penetration testing tools as part of this contract?	The State will not provide any tools for the vendor's use in performing the Information Security Assessment Services. See <i>pro forma</i> Contract Section A.6.
109	To help address "Objective 2: Provide Code Review Services", can the State describe the security code review tools available for use? Can the provider leverage the State licensed code review tools as part of this contract?	See the State's response to Question 108 above.
110	6.6 Pro Forma Contract. Section D.3.: Please modify this paragraph as follows: "The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for, authorized service completed and for services performed, whether or not the applicable milestone was completed in accordance in all material respects with the applicable MOUs, as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, neither party shall have no right to any special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor also has the right to	The State does not agree to make the requested change.

	QUESTION / COMMENT	STATE RESPONSE
	terminate its services if continuing to perform its services would compromise its independence or violate a law, regulation or professional rule.”	
111	6.6 Pro Forma Contract. Section E.2.: At the very end add the following: “Notwithstanding the foregoing, any notice of default under this Contract shall be sent by certified, first class mail, return receipt requested and postage prepaid or by overnight courier service with an asset tracking system. Copies of any notice of default to Contractor shall be sent in the same manner to Contractor’s counsel at _____.”	The State does not agree to make the requested change.
112	RFP Page. 39, Section A.10.i, Objective 5: Provide Data loss Prevention (DLP) Assessment Written Comment: [a] Does this include both physical and electronic? [b] Does the State currently have a DLP practice in place? [c] If so, what is it? [d] How is it implemented? [e] Do you have policies and procedures already in place? [f] If so, who manages or is responsible for them?	[a] Yes, and this will be specified in the project-specific SOW. [b] Yes. [c] In accordance with TCA 10-7-504(i), the State is only at liberty to say that this work falls under internal audit and assessment processes. [d] Through audit processes and technical controls. [e] There is no specific policy for DLP. However, it would fall under the State of Tennessee’s Enterprise Security Policies for Breach notification and reporting. These policies are found at the following link: http://www.state.tn.us/finance/oir/security/secpolicy.html [f] The Enterprise Information Security Team, which is a part of the Office for Information Resources.

3. Delete RFP # 31701-03054, in its entirety, and replace it with RFP # 31701-03054, Release # 2, attached to this amendment. Revisions of the original RFP document are emphasized within the new release. Any sentence or paragraph comprised by revised or new text is highlighted in yellow.



**STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION**

**REQUEST FOR PROPOSALS
FOR
INFORMATION SECURITY ASSESSMENT SERVICES**

RFP # 31701-03054

July 20, 2011

RELEASE # 2

RFP CONTENTS

SECTIONS:

1. INTRODUCTION
2. RFP SCHEDULE OF EVENTS
3. PROPOSAL REQUIREMENTS
4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS
5. PROPOSAL EVALUATION & CONTRACT AWARD

ATTACHMENTS:

- 6.1. Proposal Statement of Certifications & Assurances
- 6.2. Technical Proposal & Evaluation Guide
- 6.3. Cost Proposal & Scoring Guide
- 6.4. Reference Questionnaire
- 6.5. Proposal Score Summary Matrix
- 6.6. *Pro Forma* Contract
- 6.7. Assessment Export File Specification
- 6.8. Draft Memorandum of Understanding

1. INTRODUCTION

The State of Tennessee, Department of Finance and Administration, hereinafter referred to as “the State,” has issued this Request for Proposals (RFP) to define minimum service requirements; solicit proposals; detail proposal requirements; and, outline the State’s process for evaluating proposals and selecting a contractor to provide the needed service.

Through this RFP, the State seeks to buy the best services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, persons with a handicap or disability, and small business enterprises, opportunity to do business with the state as contractors and sub-contractors.

1.1. Statement of Procurement Purpose

- 1.1.1. The State intends to secure a contract for Information Security Assessment Services (ISAS) Consultants to assist in strengthening the State’s security posture. Services include vulnerability assessments, penetration tests, source code reviews, information security program assessment services, system design services, data loss prevention services, and limited data and network forensics services. Vulnerability assessments and penetration testing services will be used to identify and validate configuration and/or technical flaws within a given system or network (e.g. firewalls, routers, servers, operating systems, applications, databases, load-balancers, etc.). Application assessments including code review will be conducted to identify vulnerabilities and programming errors that may lead to security issues such as Cross Site Scripting and Structured Query Language (SQL) Injection. Information security program assessment services will be used to determine the maturity and effectiveness of the State’s information security program. System design services will be used to assist with the architecture and detailed design of complete systems such as networks and physical security. Data loss prevention services will be used to assess the State’s or individual agency’s infrastructure, policies and procedures around the storage and handling of confidential data. Data and network forensics services will be limited to the “root cause” analysis of information security incidents within the State’s environment.
- 1.1.2. At the State’s request and under the State’s direction, the Contractor shall provide the services described in this Contract to third parties, including federal and local government, K-12, and higher education institutions (collectively, “Non-State Participants”).
- 1.1.3. In the course of providing the services described in this RFP, The Contractor shall produce ISAS-related data and methodologies that the Contractor must retain in accordance with *pro forma* Contract Section A.16. The data values that the Contractor is required to retain are detailed in a document titled “Assessment Export File Specification.” This specification document is subject to change at the State’s discretion and may be unique for a given project. A draft of the Assessment Export File Specification is included as RFP Attachment 6.7.
- 1.1.4. Work performed under the Contract awarded through this RFP shall be performed in accordance with a Memorandum of Understanding (MOU). The format for this MOU is subject to change from time to time, at the State’s discretion. A draft of the MOU is included as RFP Attachment 6.8.
- 1.1.5. Contractor consultants shall provide the services required by this RFP within the context of the technical environment described by the *State of Tennessee Enterprise Architecture* (the “Technical Architecture”). The Contractor may request a copy of the Technical Architecture by submitting a written request to the RFP coordinator listed in RFP Section 1.4.2.1. When a contract is executed pursuant to this RFP, the Technical Architecture will be included as *pro forma* Contract Attachment B.

1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.6., *Pro Forma* Contract details the State’s required:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);

- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Proposer must sign.

1.3. **Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. **RFP Communications**

- 1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP # 31701-03054

- 1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

- 1.4.2.1. Potential proposers must direct communications relating to this RFP to the following person designated as the RFP Coordinator.

Travis Johnson
 Department of Finance and Administration
 17th Floor, William Snodgrass Tennessee Tower
 312 Rosa L. Parks Avenue
 Telephone # (615) 741-5727
 Fax # (615) 741-6164
Travis.Johnson@tn.gov

- 1.4.2.2. Notwithstanding the foregoing, potential proposers may contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, women-owned, and small businesses as well as general, public information relating to this RFP; and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Greg Spradley
 Senior Management Consultant
 Tennessee Department of Finance & Administration
 Office of Consulting Services
 312 Rosa L. Parks Avenue, Suite 1200
 Nashville, Tennessee 37243
 Phone: 615.253.8703
 Fax: 615.532.1892

- 1.4.3. Only the State's official, written responses and communications will be binding with regard to this RFP. The State will consider oral communications of any type to be unofficial and non-binding.
- 1.4.4. Potential proposers must ensure that the State receives all written comments, including questions and requests for clarification, no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Proposers must assume the risk of the method of dispatching any communication or proposal to the State. The State assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or digital "postmarking" of a communication or proposal to the State by a specified deadline date will not substitute for the State's actual receipt of a communication or proposal.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the potential proposers from whom the State has received a Notice of Intent to Propose (refer to RFP Section 1.8).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State.
- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is within the discretion of Proposers to independently verify any information before relying thereon.

1.5. Assistance to Proposers With a Handicap or Disability

Potential proposers with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Potential proposers may contact the RFP Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.6. Proposer Required Review & Waiver of Objections

- 1.6.1. Each potential proposer must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 1.6.2. Any potential proposer having questions and comments concerning this RFP must provide such in writing to the State no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Comments Deadline.

1.7. Pre-Proposal Conference

A Pre-Proposal Conference will be held at the time and date detailed in the RFP Section 2, Schedule of

Events. Pre-Proposal Conference attendance is not mandatory, and potential proposers may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

Multimedia Room
3rd Floor, William Snodgrass Tennessee Tower
312 Rosa L. Parks Ave.
Nashville, TN 37243

The purpose of the conference is to discuss the RFP scope of services. The State will entertain questions, however potential proposers must understand that the State's response to any question at the Pre-Proposal Conference shall be tentative and non-binding. Potential proposers should submit questions concerning the RFP in writing and must submit them prior to the Written Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to questions to potential proposers as indicated in RFP Section 1.4.6 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. **Notice of Intent to Propose**

Before the Notice of Intent to Propose Deadline detailed in the RFP Section 2, Schedule of Events, potential proposers should submit to the RFP Coordinator a Notice of Intent to Propose (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate)
- a contact person's name and title
- the contact person's mailing address, telephone number, facsimile number, and e-mail address

A Notice of Intent to Propose creates no obligation and is not a prerequisite for making a proposal, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.9. **Proposal Deadline**

A Proposer must ensure that the State receives a proposal no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. A proposal must respond, as required, to this RFP (including its attachments) as may be amended. The State will not accept late proposals, and a Proposer's failure to submit a proposal before the deadline will result in disqualification of the proposal.

2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE (all dates are state business days)
13. RFP Issued		June 15, 2011
14. Disability Accommodation Request Deadline	2:00 p.m.	June 22, 2011
15. Pre-proposal Conference	2:00 p.m.	June 24, 2011
16. Notice of Intent to Propose Deadline	2:00 p.m.	June 28, 2011
17. Written "Questions & Comments" Deadline	2:00 p.m.	July 6, 2011
18. State Response to Written "Questions & Comments"		July 20, 2011
19. Proposal Deadline	2:00 p.m.	July 28, 2011
20. State Completion of Technical Proposal Evaluations		August 9, 2011
21. State Opening & Scoring of Cost Proposals	2:00 p.m.	August 10, 2011
22. State Evaluation Notice Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	August 12, 2011
23. Contract Signing		August 24, 2011
24. Contractor Contract Signature Deadline	2:00 p.m.	August 31, 2011

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to potential proposers from whom the State has received a Notice of Intent to Propose (refer to section 1.8).

3. PROPOSAL REQUIREMENTS

3.1. Proposal Form

A response to this RFP must consist of two parts, a Technical Proposal and a Cost Proposal.

- 3.1.1. **Technical Proposal.** The RFP Attachment 6.2., Technical Proposal & Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFP. The guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical proposal must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical proposal, the state will deem the proposal to be non-responsive and reject it.

- 3.1.1.1. A Proposer must use the RFP Attachment 6.2., Technical Proposal & Evaluation Guide to organize, reference, and draft the Technical Proposal by duplicating the attachment, adding appropriate proposal page numbers as required, and using the guide as a table of contents covering the Technical Proposal.
- 3.1.1.2. A proposal should be economically prepared, with emphasis on completeness and clarity. A proposal, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible). All proposal pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Proposal should respond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a proposal to be non-responsive and reject it if:
- a. the Proposer fails to organize and properly reference the Technical Proposal as required by this RFP and the RFP Attachment 6.2., Technical Proposal & Evaluation Guide; or
 - b. the Technical Proposal document does not appropriately respond to, address, or meet all of the requirements and proposal items detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide.

- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

NOTICE: If a proposer fails to submit a cost proposal exactly as required, the state will deem the proposal to be non-responsive and reject it.

- 3.1.2.1. A Proposer must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.

- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.
- 3.1.2.3. A Proposer must sign and date the Cost Proposal.
- 3.1.2.4. A Proposer must submit the Cost Proposal to the State in a sealed package separate from the Technical proposal (as detailed in RFP Sections 3.2.3., *et seq.*).

3.2. Proposal Delivery

A Proposer must deliver a proposal in response to this RFP as detailed below. The State will not accept a proposal delivered by any other method.

- 3.2.1. A Proposer must ensure that both the original Technical Proposal and Cost Proposal documents meet all form and content requirements detailed within this RFP for such proposals including but not limited to required signatures.
- 3.2.2. A Proposer must submit original Technical Proposal and Cost Proposal documents and copies as specified below.

- 3.2.2.1. One (1) original Technical Proposal paper document labeled:

“RFP # 31701-03054 TECHNICAL PROPOSAL ORIGINAL”

and five (5) copies of the Technical Proposal each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc labeled:

“RFP # 31701-03054 TECHNICAL PROPOSAL COPY”

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Proposal document and any digital copies may result in the State rejecting the proposal as non-responsive.

- 3.2.2.2. One (1) original Cost Proposal paper document labeled:

“RFP # 31701-03054 COST PROPOSAL ORIGINAL”

and one (1) copy in the form of a digital document in “PDF” format properly recorded on separate, blank, standard CD-R recordable disc labeled:

“RFP # 31701-03054 COST PROPOSAL COPY”

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

- 3.2.3. A Proposer must separate, seal, package, and label the documents and discs for delivery as follows.

- 3.2.3.1. The Technical Proposal original document and copy discs must be placed in a sealed package that is clearly labeled:

**“DO NOT OPEN... RFP # 31701-03054 TECHNICAL PROPOSAL FROM
[PROPOSER LEGAL ENTITY NAME]”**

- 3.2.3.2. The Cost Proposal original document and copy disc must be placed in a separate, sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 31701-03054 COST PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

- 3.2.3.3. The separately, sealed Technical Proposal and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP # 31701-03054 SEALED TECHNICAL PROPOSAL & SEALED COST PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

- 3.2.4. A Proposer must ensure that the State receives a proposal in response to this RFP no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address.

Travis Johnson
Department of Finance and Administration
17th Floor, Snodgrass TN Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243
Ph: 615-741-5727

3.3. Proposal & Proposer Prohibitions

- 3.3.1. A proposal must not include the Proposer’s own contract terms and conditions. If a proposal contains such terms and conditions, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.
- 3.3.2. A proposal must not restrict the rights of the State or otherwise qualify either the offer to deliver services as required by this RFP or the Cost Proposal. If a proposal restricts the rights of the State or otherwise qualifies either the offer to deliver services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.
- 3.3.3. A proposal must not propose alternate services (*i.e.*, offer services different from those requested and required by this RFP). The State will consider a proposal of alternate services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal must not result from any collusion between Proposers. The State will reject any Cost Proposal that was not prepared independently without collusion, consultation, communication, or agreement with any other Proposer. Regardless of the time of detection, the State will consider any such actions to be grounds for proposal rejection or contract termination.
- 3.3.5. A Proposer must not provide, for consideration in this RFP process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect. If the State determines that a Proposer has provided such incorrect information, the State will deem the Proposer’s proposal non-responsive and reject it.
- 3.3.6. A Proposer must not submit more than one Technical Proposal and one Cost Proposal in response to this RFP. If a Proposer submits more than one Technical Proposal or more than one Cost Proposal, the State will deem all of the proposals non-responsive and reject them.
- 3.3.7. A Proposer must not submit a proposal as a prime contractor while also permitting one or more other Proposers to offer the Proposer as a subcontractor in their own proposals. Such may result in the disqualification of all Proposers knowingly involved. This restriction does not, however, prohibit different Proposers from offering the same subcontractor as a part of their proposals (provided that the subcontractor does not also submit a proposal as a prime contractor).
- 3.3.8. A Proposer must not be (and the State will not award a contract to):

- a. an individual who is, or within the past six months has been, an employee of the State of Tennessee or who is a volunteer member of a State board or commission that votes for, lets out, overlooks, or any manner superintends the services being procured in this RFP;
- b. a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee (this will not apply either to financial interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);
- c. a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,
- d. any individual, company, or other entity involved in assisting the State in the development, formulation, or drafting of this RFP or its scope of services (such person or entity being deemed by the State as having information that would afford an unfair advantage over other Proposers).

For the purposes of applying the requirements of this RFP subsection 3.3.8., the State will deem an individual to be an employee of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid, but the term "employee of the State of Tennessee" shall not include individuals performing volunteer services for the State of Tennessee.

3.4. **Proposal Errors & Revisions**

A Proposer is liable for any and all proposal errors or omissions. A Proposer will not be allowed to alter or revise proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. **Proposal Withdrawal**

A Proposer may withdraw a submitted proposal at any time before the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Proposer representative. After withdrawing a proposal, a Proposer may submit another proposal at any time before the Proposal Deadline.

3.6. **Proposal of Additional Services**

If a proposal offers services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Proposer must not propose any additional cost amount(s) or rate(s) for additional services. Regardless of any additional services offered in a proposal, the Proposer's Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a Proposer fails to submit a Cost Proposal exactly as required, the State will deem the proposal non-responsive and reject it.

3.7. **Proposal Preparation Costs**

The State will not pay any costs associated with the preparation, submittal, or presentation of any proposal.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State reserves the right to amend this RFP at any time, provided that it is amended in writing. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential proposers to meet the proposal deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential proposers who submitted a Notice of Intent to Propose (refer to RFP Section 1.8). A proposal must respond, as required, to the final RFP (including its attachments) as may be amended.

4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. State Right of Rejection

4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all proposals.

4.3.2. The State may deem as non-responsive and reject any proposal that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, a proposal's minor variances from full compliance with this RFP. If the State waives variances in a proposal, such waiver shall not modify the RFP requirements or excuse the Proposer from full compliance with such, and the State may hold any resulting Contractor to strict compliance with this RFP.

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Proposer intends to use subcontractors, the proposal in response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.14.).

4.4.3. Subcontractors identified within a proposal in response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. The Contractor resulting from this RFP may only substitute another subcontractor for a proposed subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Contractor resulting from this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing service in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

4.6. Insurance

At any time, the State may require the Contractor resulting from this RFP to provide a valid, Certificate of

Insurance indicating current insurance coverage meeting minimum requirements as may be specified by this RFP. A failure to provide said documentation will be considered a material breach and grounds for contract termination.

4.7. Licensure

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Proposer provides for consideration and evaluation by the State as a part of a proposal in response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Proposer (and Proposer employees and subcontractors, as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The State may require any Proposer to submit evidence of proper licensure.

4.8. Disclosure of Proposal Contents

- 4.8.1. Each proposal and all materials submitted to the State in response to this RFP become the property of the State of Tennessee. Selection or rejection of a proposal does not affect this right. By submitting a proposal, a Proposer acknowledges and accepts that the full proposal contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all proposal information, including both technical and cost information, in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Proposers submitting timely proposals may be available to the public, upon request, after technical proposals are opened.
- 4.8.3. Upon completion of proposal evaluations, indicated by public release of an Evaluation Notice, the proposals and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.9. Contract Approval and Contract Payments

- 4.9.1. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. State obligations pursuant to a contract award shall commence only after the contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
- 4.9.2. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.
 - 4.9.2.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before the Contract start date or after the Contract end date.
 - 4.9.2.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).
 - 4.9.2.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of services or items to be delivered to the State as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive

and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amount(s) which it determines did not result from a reasonably competitive purchase or do not represent reasonable, necessary, and actual costs.

4.10. Contractor Performance

The Contractor resulting from this RFP will be responsible for the completion of all service set out in this RFP (including attachments) as may be amended. All service is subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that service is progressing and being performed in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. Contract Amendment

During the course of a Contract pursuant to this RFP, the State may request the Contractor to perform additional work within the general scope of the Contract and this RFP, but beyond the specified scope of service, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional work. The Contractor must respond to the State with a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's proposal to this RFP. If the State and the Contractor reach an agreement regarding the work and associated compensation, such agreement must be effected by means of a Contract Amendment. Further, any such amendment requiring additional work must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes and rules of the State of Tennessee. The Contractor must not commence additional work until the State has issued a written Contract Amendment with all required approvals.

4.12. Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Proposers will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

5. PROPOSAL EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of proposals and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each apparently responsive proposal.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	30
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	40
Cost Proposal (refer to RFP Attachment 6.3.)	30

5.2. Evaluation Process

The proposal evaluation process is designed to award the contract resulting from this RFP not necessarily to the Proposer offering the lowest cost, but rather to the responsive and responsible Proposer offering the best combination of attributes based upon the evaluation criteria. ("Responsive Proposer" is defined as a Proposer that has submitted a proposal that conforms in all material respects to the RFP. "Responsible Proposer" is defined as a Proposer that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Proposal Evaluation.** The RFP Coordinator and the Proposal Evaluation Team (consisting of three or more State employees) will use the RFP Attachment 6.2., Technical Proposal & Evaluation Guide to manage the Technical Proposal Evaluation and maintain evaluation records.

- 5.2.1.1. The State reserves the right, at its sole discretion, to request Proposer clarification of a Technical Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion will be limited to specific sections of the proposal identified by the State. The subject Proposer must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.
- 5.2.1.2. The RFP Coordinator will review each Technical Proposal to determine compliance with RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section A—Mandatory Requirements. If the RFP Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document the team's determination of whether:
 - a. the proposal adequately meets requirements for further evaluation;
 - b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
 - c. the State will determine the proposal non-responsive to the RFP and reject it.
- 5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Proposal (that appears responsive to the RFP) against the evaluation criteria in this RFP, rather than against other proposals and will score each in accordance with the RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and Section C.

- 5.2.1.4. For each proposal evaluated, the RFP Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and for Section C, and record each average as the proposal score for the respective Technical Proposal section.
- 5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Proposal Evaluation record and any other available information pertinent to whether or not each Proposer is responsive and responsible. If the Proposal Evaluation Team identifies any Proposer that appears not to meet the responsive and responsible thresholds such that the team would not recommend the Proposer for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.
- 5.2.2. **Cost Proposal Evaluation.** The RFP Coordinator will open for evaluation the Cost Proposal of each apparently responsive and responsible Proposer that the Proposal Evaluation Team has effectively recommended for potential contract award and will calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.
- 5.2.3. **Total Proposal Score.** The RFP Coordinator will calculate the sum of the Technical Proposal section scores and the Cost Proposal score and record the resulting number as the total score for the subject Proposal (refer to RFP Attachment 6.5., Proposal Score Summary Matrix).

5.3. **Contract Award Process**

- 5.3.1 The RFP Coordinator will submit the Proposal Evaluation Team determinations and proposal scores to the head of the procuring agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2. The procuring agency head will determine the apparent best-evaluated proposal. (To effect a contract award to a Proposer other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Commissioner of Finance and Administration and the Comptroller of the Treasury.)
- 5.3.3. The State reserves the right to make an award without further discussion of any proposal.
- 5.3.4. The State will issue an Evaluation Notice identifying the apparent best-evaluated proposal and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

- 5.3.5. The Proposer identified as offering the apparent best-evaluated proposal must sign a contract drawn by the State pursuant to this RFP. The contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Proposer must sign said contract no later than the Contract Signature by Contractor Deadline detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed contract by the deadline, the State may determine that the Proposer is non-responsive to this RFP and reject the proposal.
- 5.3.6. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

- 5.3.7. If the State determines that a proposal is non-responsive and rejects it after opening Cost Proposals, the RFP Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated proposal.

RFP ATTACHMENT 6.1.**RFP # 31701-03054 PROPOSAL STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Proposer must sign and complete the Proposal Statement of Certifications and Assurances below as required, and it must be included in the Technical Proposal (as required by RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section A, Item A.1.).

The Proposer does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Proposer will comply with all of the provisions and requirements of the RFP.
2. The Proposer will provide all services as defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract for the total contract period.
3. The Proposer accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Proposer acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. The Proposer will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the proposal submitted in response to the RFP is accurate.
7. The proposal submitted in response to the RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the RFP or any resulting contract.
9. Both the Technical Proposal and the Cost Proposal submitted in response to the RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

By signing this Proposal Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Proposer (if an individual) or the Proposer's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the proposing entity.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE PROPOSING ENTITY

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

PROPOSER LEGAL ENTITY NAME:

PROPOSER FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN):

RFP ATTACHMENT 6.2. — Section A

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

The RFP Coordinator will review the proposal to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the proposal and attach a written determination. In addition to the Mandatory Requirement Items, the RFP Coordinator will review each proposal for compliance with all RFP requirements.

PROPOSER LEGAL ENTITY NAME:			
Proposal Page # (Proposer completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Proposal must be delivered to the State no later than the Proposal Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Proposal and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		The Technical Proposal must NOT contain cost or pricing information of any type.	
		The Technical Proposal must NOT contain any restrictions of the rights of the State or other qualification of the proposal.	
		A Proposer must NOT submit alternate proposals.	
		A Proposer must NOT submit multiple proposals in different forms (as a prime and a sub-contractor).	
	A.1.	Provide the Proposal Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Proposer to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Proposer's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Proposer has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a positive credit rating for the Proposer (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	
	A.6	The Proposer must have performed a security assessment on a government entity or corporation that supports multiple operating systems and networking technologies and that:	

PROPOSER LEGAL ENTITY NAME:			
Proposal Page # (Proposer completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		<ul style="list-style-type: none"> • has a minimum of 5,000 employees; or • has a minimum of 5,000 endpoint devices and/or servers <p><u>Evidence of this should be in the form of a list of the Proposer's clients meeting this requirement with the total number for each client identified with the client name.</u> The count should be the total number of employees or endpoint devices in the entire organization (federal agency, state government, county government, corporation, etc.), including all divisions, agencies, sections, etc. and may be rounded to the nearest hundred. (For example, the State of Tennessee has approximately 40,000 employees or approximately 45,000 endpoint devices.)</p>	
<i>State Use – RFP Coordinator Signature, Printed Name & Date:</i>			

RFP ATTACHMENT 6.2. — SECTION B

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE. The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the proposal.
	B.2.	Describe the Proposer's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	B.3.	Detail the number of years the Proposer has been in business.
	B.4.	Briefly describe how long the Proposer has been performing the services required by this RFP.
	B.5.	Describe the Proposer's number of employees, client base, and location of offices.
	B.6.	Provide a statement of whether there have been any mergers, acquisitions, or sales of the Proposer within the last ten years. If so, include an explanation providing relevant details.
	B.7.	Provide a statement of whether the Proposer or, to the Proposer's knowledge, any of the Proposer's employees, agents, independent contractors, or subcontractors, proposed to provide work on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	B.8.	Provide a statement of whether, in the last ten years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	B.9.	<p>Provide a statement of whether there is any material, pending litigation against the Proposer that the Proposer should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Proposer's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Proposer's performance in a contract pursuant to this RFP.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.</p>
	B.10.	<p>Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Proposer. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Proposer's performance in a contract pursuant to this RFP.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.11.	Provide a brief, descriptive statement detailing evidence of the Proposer's ability to deliver the services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).
	B.12.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to accomplish the work required by this RFP, illustrating the lines of authority, and designating the individual responsible for the completion of each service component and deliverable of the RFP.
	B.13.	Provide a personnel roster listing the names of key people who the Proposer will assign to perform duties or services required by this RFP. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Proposer, and employment history.
	B.14.	<p>Provide a statement of whether the Proposer intends to use subcontractors to accomplish the work required by this RFP, and if so, detail:</p> <ul style="list-style-type: none"> (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (b) a description of the scope and portions of the work each subcontractor will perform; <u>and</u> (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Proposer's response to this RFP.
	B.15.	<p>Provide documentation of the Proposer's commitment to diversity as represented by its business strategy, business relationships, and workforce— this documentation should detail <u>all</u> of the following:</p> <ul style="list-style-type: none"> (a) a description of the Proposer's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises; (b) a listing of the Proposer's current contracts with business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises, including the following information: <ul style="list-style-type: none"> (i) contract description and total value (ii) contractor name and ownership characteristics (i.e., ethnicity, sex, disability) (iii) contractor contact and telephone number; (c) an estimate of the level of participation by business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises in a contract awarded to the Proposer pursuant to this RFP, including the following information: <ul style="list-style-type: none"> (i) participation estimate (expressed as a percent of the total contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics — PERCENTAGES ONLY — DO NOT INCLUDE DOLLAR AMOUNTS) (ii) descriptions of anticipated contracts (iii) names and ownership characteristics (i.e., ethnicity, sex, disability) of anticipated subcontractors and supply contractors anticipated; and (d) the percent of the Proposer's total current employees by ethnicity, sex, and handicap or disability. <p>NOTE: Proposers that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and sub-contractors. Proposal evaluations will recognize the positive qualifications and experience of a Proposer that does business with enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises and that offers a diverse workforce to meet service needs.</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.16.	<p>Provide a statement of whether or not the Proposer has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous 5-year period. If so, provide the following information for all of the current and completed contracts:</p> <ul style="list-style-type: none"> (a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract; (b) the procuring State agency name; (c) a brief description of the contract's scope of services; (d) the contract term; and (e) the contract number. <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Current or prior contracts with the State are <u>not</u> a prerequisite and are <u>not</u> required for the maximum evaluation score, and the existence of such contracts with the State will <u>not</u> automatically result in the addition or deduction of evaluation points. ▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.
	B.17.	<p>Provide customer references from individuals (who are <u>not</u> current or former officials or staff of the State of Tennessee) for projects similar to the services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) of the larger accounts currently serviced by the Proposer, <u>and</u> ▪ three (3) completed projects. <p>All references must be provided in the form of standard reference questionnaires that have been fully completed by the individual providing the reference as required. The standard reference questionnaire, which <u>must</u> be used and completed as required, is detailed at RFP Attachment 6.4. References that are not completed as required will be considered non-responsive and will not be considered.</p> <p>The Proposer will be <u>solely</u> responsible for obtaining the fully completed reference questionnaires, and for including them within the Proposer's sealed Technical Proposal. In order to obtain and submit the completed reference questionnaires, as required, follow the process detailed below.</p> <ul style="list-style-type: none"> (a) "Customize" the standard reference questionnaire at RFP Attachment 6.4. by adding the subject Proposer's name, and make exact duplicates for completion by references. (b) Send the customized reference questionnaires to each individual chosen to provide a reference along with a new standard #10 envelope. (c) Instruct the person that will provide a reference for the Proposer to: <ul style="list-style-type: none"> (i) complete the reference questionnaire (on the form provided or prepared, completed, and printed using an exact duplicate of the document); (ii) sign <u>and</u> date the completed, reference questionnaire; (iii) seal the completed, signed, and dated, reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and (v) return the sealed envelope containing the completed reference questionnaire directly to the Proposer (the Proposer may wish to give each reference a deadline, such that the Proposer will be able to collect all required references in time to include them within the sealed Technical Proposal). (d) <u>Do NOT open the sealed references upon receipt.</u> (e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Proposal as required.

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:			
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items	
		<p>NOTES:</p> <ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Proposal package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under <u>no</u> obligation to clarify any reference information. 	
<p>SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): <i>(maximum possible score = 30)</i></p>			
<p><i>State Use – Evaluator Identification:</i></p>			

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Proposer must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the proposal's response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent

The RFP Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's raw, weighted score for purposes of calculating the section score as indicated.

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Proposer's understanding of the State's requirements and project schedule.		5	
	C.2.	Provide a narrative that illustrates how the Proposer will complete the scope of services, accomplish required objectives, and meet the State's project schedule.		5	
	C.3.	Provide a narrative that illustrates how the Proposer will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule.		5	
	C.4.	Provide a narrative illustrating your methodology for conducting vulnerability assessments and penetration tests.		10	
	C.5.	Provide a narrative describing how you apply your vulnerability assessment and penetration testing methodologies in performing the services for customers. Including project management; incident and emergency procedures; findings, vulnerabilities, and/or report delivery practices.		5	
	C.6.	Provide a narrative detailing the systems that you are able to assess for vulnerabilities. Including but not limited to: operating systems, databases, applications, and infrastructure/networking.		5	
	C.7.	Provide a narrative illustrating your methodology for reviewing code.		5	
	C.8.	Provide a narrative describing how you apply your code review methodologies in performing the services for customers. Including project management; incident and emergency procedures; findings, vulnerabilities, and/or		4	

RFP ATTACHMENT 6.3. (continued)

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		report delivery practices.			
	C.9.	Provide a list of the code languages you can review.		4	
	C.10.	Provide an anonymous example of a report outlining the required deliverables as provided in the Scope of Services.		4	
	C.11.	Please provide a narrative describing your process for conducting background checks on your employees.		3	
	C.12.	Provide a narrative describing your Information security program assessment services.		10	
	C.13.	Provide an example of an information security program assessment services report including the deliverables in the Scope of Services.		5	
	C.14.	Provide a narrative describing your system design services.		10	
	C.15.	Provide a narrative describing your data loss prevention services.		10	
	C.16.	Provide a narrative describing your data and network forensics services.		10	
<i>The RFP Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					
				Total Raw Weighted Score: (sum of Raw Weighted Scores above)	
Total Raw Weighted Score <hr/> Maximum Possible Raw Weighted Score <i>(i.e., 5 x the sum of item weights above)</i>		X 40 <i>(maximum possible score)</i>	= SCORE:		
<i>State Use – Evaluator Identification:</i>					
<i>State Use – RFP Coordinator Signature, Printed Name & Date:</i>					

RFP ATTACHMENT 6.3.**COST PROPOSAL & SCORING GUIDE***NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED*

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for the entire scope of service including all services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

The proposed hourly rates must be fully loaded to include all administrative, software tool, and travel costs.

The Proposer must enter only one rate per cost cell; the proposer must **NOT** enter more than one rate or a range of rates in a single cost cell. The Proposer must **NOT** add any other information to the Cost Proposal.

The Proposer may enter zero (0) in a required proposed cost cell; however, the Proposer should not leave any proposed cost cell blank. For evaluation and contractual purposes, the State shall interpret a blank Proposed Cost cell as zero (0).

Note that the Proposed Costs for Contract Years 4 and 5 will only be invoked if the Contract term is extended pursuant to Contract Section B.2.

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Proposer.

Notwithstanding the cost items herein, pursuant to the second paragraph of the pro forma contract section C.1. (refer to RFP Attachment 6.6.), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the proposing entity.

PROPOSER SIGNATURE:	
PRINTED NAME & TITLE:	
DATE:	
PROPOSER LEGAL ENTITY NAME:	

RFP ATTACHMENT 6.3. (continued)

Cost Item Description	Proposed Cost					State Use ONLY		
	Year 1 9/12/2011— 9/11/2012	Year 2 9/12/2012— 9/11/2013	Year 3 9/12/2013— 9/11/2014	Year 4 9/12/2014— 9/11/2015	Year 5 9/12/2015— 9/11/2016	Sum	Evaluation Factor	Evaluation Cost (sum x factor)
Information Security Assessor / Penetration Tester – I (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		2	
Information Security Assessor / Penetration Tester – II (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		20	
Information Security Assessor / Penetration Tester – III (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		180	
Information Security Assessor / Penetration Tester – IV (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		40	
Security Program Assessor – I (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		2	
Security Program Assessor – II (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		20	
Security Program Assessor – III (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		126	
Security Program Assessor – IV (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		20	
Data Loss Prevention (DLP) Consultant – I (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		4	
Data Loss Prevention (DLP) Consultant – II (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		8	
Data Loss Prevention (DLP) Consultant – III (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		40	

RFP ATTACHMENT 6.3. (continued)

Cost Item Description	Proposed Cost					State Use ONLY		
	Year 1 9/12/2011— 9/11/2012	Year 2 9/12/2012— 9/11/2013	Year 3 9/12/2013— 9/11/2014	Year 4 9/12/2014— 9/11/2015	Year 5 9/12/2015— 9/11/2016	Sum	Evaluation Factor	Evaluation Cost (sum x factor)
Data Loss Prevention (DLP) Consultant – IV (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		5	
Forensic Investigator – I (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		2	
Forensic Investigator – II (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		4	
Forensic Investigator – III (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		40	
Forensic Investigator – IV (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		6	
Security System Design Engineer/Architect – I (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		2	
Security System Design Engineer/Architect – II (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		5	
Security System Design Engineer/Architect – III (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		40	
Security System Design Engineer/Architect – IV (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		10	
Incident Response Consultant – I (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		2	
Incident Response Consultant – II (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		2	
Incident Response Consultant – III (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		40	

RFP ATTACHMENT 6.3. (continued)

Cost Item Description	Proposed Cost					State Use ONLY		
	Year 1 9/12/2011— 9/11/2012	Year 2 9/12/2012— 9/11/2013	Year 3 9/12/2013— 9/11/2014	Year 4 9/12/2014— 9/11/2015	Year 5 9/12/2015— 9/11/2016	Sum	Evaluation Factor	Evaluation Cost (sum x factor)
Incident Response Consultant – IV (Cont. Sections A.2.b and A.2.c)	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour	\$ / per hour		20	
The RFP Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.								
$\frac{\text{lowest evaluation cost amount from all proposals}}{\text{evaluation cost amount being evaluated}}$						$\times 30$ (maximum possible score)	= SCORE:	
State Use – RFP Coordinator Signature, Printed Name & Date:								

REFERENCE QUESTIONNAIRE

The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Proposer.

The Proposer will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B, Item B.17.), and for enclosing the sealed reference envelopes within the Proposer's Technical Proposal.

RFP # 31701-03054 PROPOSAL REFERENCE QUESTIONNAIRE**REFERENCE SUBJECT:** **PROPOSER NAME** (completed by proposer before reference is requested)

The "reference subject" specified above, intends to submit a proposal to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such proposal, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire;
- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

(1) **What is the name of the individual, company, organization, or entity responding to this reference questionnaire?**

(2) **Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.**

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) **What services does /did the reference subject provide to your company or organization?**

(4) **What is the level of your overall satisfaction with the reference subject as a vendor of the services described above?**

Please respond by circling the appropriate number on the scale below.

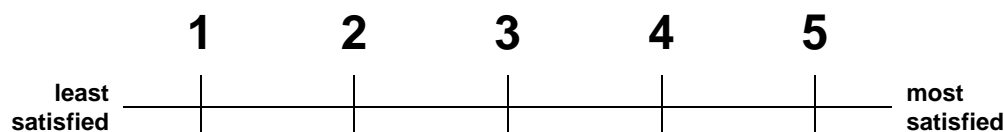
	1	2	3	4	5	
least satisfied						most satisfied

RFP # 31701-03054 PROPOSAL REFERENCE QUESTIONNAIRE — PAGE 2

If you circled 3 or less above, what could the reference subject have done to improve that rating?

- (5) If the services that the reference subject provided to your company or organization are completed, were the services completed in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (6) If the reference subject is still providing services to your company or organization, are these services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (7) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?
- (8) In what areas of service delivery does /did the reference subject excel?
- (9) In what areas of service delivery does /did the reference subject fall short?
- (10) What is the level of your satisfaction with the reference subject's project management structures, processes, and personnel?

Please respond by circling the appropriate number on the scale below.



What, if any, comments do you have regarding the score selected above?

- (11) Considering the staff assigned by the reference subject to deliver the services described in response to question 3 above, how satisfied are you with the technical abilities, professionalism, and interpersonal skills of the individuals assigned?

Please respond by circling the appropriate number on the scale below.

	1	2	3	4	5	
least						most
satisfied	—	—	—	—	—	satisfied

What, if any, comments do you have regarding the score selected above?

- (12) Would you contract again with the reference subject for the same or similar services?

Please respond by circling the appropriate number on the scale below.

	1	2	3	4	5	
least						most
satisfied	—	—	—	—	—	satisfied

What, if any, comments do you have regarding the score selected above?

REFERENCE SIGNATURE:

(by the individual completing this
request for reference information)

(must be the same as the signature across the envelope seal)

DATE:

RFP ATTACHMENT 6.5.

PROPOSAL SCORE SUMMARY MATRIX

	<i>PROPOSER NAME</i>		<i>PROPOSER NAME</i>		<i>PROPOSER NAME</i>	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 30)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 40)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
COST PROPOSAL (maximum: 30)	SCORE:		SCORE:		SCORE:	
TOTAL PROPOSAL EVALUATION SCORE: (maximum: 100)						
RFP Coordinator Signature, Printed Name & Date:						

RFP # 31701-03054 *PRO FORMA* CONTRACT

The *pro forma* contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Finance and Administration, hereinafter referred to as the "State" and **Contractor Legal Entity Name**, hereinafter referred to as the "Contractor," is for the provision of Information Security Assessment Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.**

Contractor Federal Employer Identification, Social Security, or Edison Registration ID # **Number**

Contractor Place of Incorporation or Organization: **Location**

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.

A.2. The purpose of this Contract is to provide a source for Information Security Assessment and Consulting Services (ISACS). The Department of Finance & Administration (F&A) Office for Information Resources (OIR) will manage the Contract. The services provided by this Contract will be offered to State agencies through OIR. Agencies interested in using the services will contact OIR and may assist in developing the Statements of Work (SOWs). **The Contractor must include OIR in any and all discussions with State agencies or Non-State Participants (see Contract Section A.17) regarding services provided under this Contract. All SOWs will be initiated and issued by OIR and all Memoranda of Understanding (MOUs) will be approved and signed by OIR and the Contractor.**

- a. Under the terms of this Contract and at the State's request, the Contractor will provide vulnerability assessment and penetration testing services, application source code review services, information security program assessment services, system design services, data loss prevention services and limited data and network forensics services, to the State using the consultants listed in Contract Section A.2.b, below (collectively, "Consultants").
- b. Depending upon the requirements of each specific security assessment project, the Contractor must be prepared to provide Consultants in one or more of the following classifications
 - i. Information Security Assessor/Penetration Tester. This individual must possess information security-related experience.
 - ii. Security Program Assessor. This individual must possess security program assessment experience, and must be a Certified Information Security Manager (CISM), Certified Information Systems Auditor (CISA), and/or Certified Information Systems Security Professional (CISSP).
 - iii. Data Loss Prevention (DLP) Consultant. This individual must possess DLP experience.
 - iv. Forensic Investigator. This individual must possess computer forensics experience and forensics certifications recognized by state and federal courts.

- v. Security System Design Engineer/Architect. This individual must possess security system design experience, must be a CISSP, and also must hold a technical certification such as a Cisco Certified Security Professional (CCSP) and/or Juniper Networks Certified Internet Specialist (JNCIP).
 - vi. Incident Response Consultant. This individual must possess incident response certifications such as those from Global Information Assurance Certification (GIAC) GIAC Certified Incident Handler (GCIH) and/or Certified Computer Security Incident Handler (CSIH).
 - c. In each of the above classifications, the Contractor must be prepared to supply Consultants with varying levels of experience, as follows:
 - Level I – Less than five (5) years of experience;
 - Level II – From five (5) to less than ten (10) years of experience;
 - Level III – From ten (10) to less than fifteen (15) years of experience;
 - Level IV – Fifteen (15) or more years of experience.
- A.3 The specific roles and responsibilities of Contractor consultants shall be as defined in the Contract and future SOWs.
- A.4. The SOW will specify the work location(s) of Contractor consultants. Contractor consultants shall provide services under this Contract at one of the following locations:
- a. Contractor consultants may be based on-site and perform their work at State-operated, maintained, and managed facilities in Nashville, Tennessee;
 - b. Contractor consultants may be based off-site and perform their work at a Contractor location; or
 - c. In the case of work that is performed for a Non-State Participant in this Contract, Contractor consultants may be based at facilities operated, maintained, and/or managed by the relevant Non-State Participant (see Contract Section A.17).
- In any event, the State reserves the right to specify the work location, in the best interest of the project.
- A.5. Standard State work schedules are based on a Monday through Friday thirty seven and one-half (37.5) hour workweek, typically comprised of five (5) seven and one-half (7.5) hour workdays, between the hours of 8:00 a.m. CST and 4:30 p.m. CST, excluding State holidays. Unless specific times are designated in the SOW, work performed under this Contract may occur during the standard State work schedule, on weekends, on State holidays, and/or at off-hours Monday through Friday. Contractor consultants will be compensated at the payment rates in Contract Section C.3., regardless of the day, date, or time the tasks are performed or the total number of hours worked during a workweek.
- A.6. Contractor consultants must provide their own personal computing devices (desktop, laptop, etc.) and licenses for software installed on the devices. Commensurate with the needs of a given project, the State will provide Contractor consultants with office and meeting space, access to telephones, printers, and copiers, and connections to the Internet and/or State network. The State shall be the sole determinant with regard to facilities, supplies, access, and connections required for any given project.
- A.7. The Contractor understands and agrees that the State has executed and may execute contracts with other parties for services the same as or similar to those described herein. The State

understands and agrees that the Contractor may perform services the same as or similar to those described herein for other Contractor customers.

- A.8. The purpose of this Contract is to establish a source of supply for information security assessment consultants. However, due to the dynamic nature of projects within State government, the State cannot predict the numbers of Contractor consultants that will be required under this Contract. Therefore, the State makes no guarantees, either stated or implied, about the demand for resources provided through this procurement. The State is not obligated to use any of the Contractor's consultants. Throughout the term of the Contract, the State retains full control and flexibility with regard to the types, quantities, and timing of Contractor consultant usage.

A.9. Contractor Objectives and Deliverables

a. Objective 1: Provide Security Vulnerability Assessment and Penetration Testing Services

The Contractor shall conduct vulnerability assessments and penetration tests to assist in strengthening the security posture of the State of Tennessee. Vulnerability assessments and penetration testing services shall be used in identifying and validating configuration and/or technical flaws within a given system or network (i.e. firewalls, routers, switches, servers, operating systems, applications, databases, load-balancers, etc.).

b. Objective 1 Deliverables:

i. An Assessment Report outlining:

- (1) Details of the methodology used to conduct the security vulnerability assessments and penetration tests;
- (2) The results including, but not limited to, the full details of the actions taken; and
- (3) The detailed documentation of security flaws and remediation recommendations of those flaws found.

ii. Any additional deliverables as defined in the SOW.

c. Objective 2: Provide Code Review Services

The Contractor shall conduct code review services to assist the Information Security Assessment Services (ISAS) User in strengthening the security posture of the State of Tennessee. The Contractor shall evaluate source code for programming errors that may lead to security issues (i.e. format string mistakes, buffer overflows, memory leaks, input validation/sanitization mistakes, etc.).

d. Objective 2 Deliverables:

i. A Code Review Report outlining:

- (1) Details of the methodology used to conduct code reviews;
- (2) The results including, but not limited to, the full details of the actions taken; and
- (3) The detailed documentation of security flaws and remediation recommendations of those flaws found.

ii. Any additional deliverables as defined in the SOW.

e. Objective 3: Provide Forensics Services

The Contractor shall provide services for data and network forensics which help to identify the “root cause” of information security incidents within the State’s environment. This includes but is not limited to investigation and retrieval of deleted or modified files, electronic messages and Internet activity; expert testimony; and dedicated hands-on case work investigating intrusions.

f. Objective 3 Deliverables:

i. A Forensics Report outlining:

- (1) Details of the methodology used to conduct forensics;
- (2) The results including, but not limited to, the full details of the actions taken; and
- (3) The detailed documentation of findings.

ii. Any additional deliverables as defined in the SOW.

g. Objective 4: Provide Enterprise Security Program Assessment

The Contractor shall analyze the State’s current information security program and determine the adequacy and effectiveness of the program and it’s associated administrative, technical and management controls using government regulatory requirements, such as Health Insurance Portability and Accountability (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH) and/or standards and practices defined in industry recognized frameworks such as Payment Card Industry-Data Security Standard (PCI-DSS), International Organization for Standardization (ISO) 27002, and Statement on Auditing Standards (SAS) 70.

h. Objective 4 Deliverables:

i. A Security Program Assessment Report outlining:

- (1) Details of the methodology used to conduct the assessment;
- (2) The results including, but not limited to, the full details of the actions taken; and
- (3) The detailed documentation of findings.

ii. Any additional deliverables as defined in the SOW.

i. Objective 5: Provide Data Loss Prevention (DLP) Assessment

The Contractor shall perform onsite assessments inspecting facilities and operations gaining an understanding of the level of protection desired and effectiveness of policies and controls.

j. Objective 5 Deliverables:

i. A DLP Assessment Report outlining:

- (1) Details of the methodology used to conduct the assessment;
- (2) The results including, but not limited to, the full details of the actions taken; and
- (3) The detailed documentation of findings.

ii. Any additional deliverables as defined in the SOW.

k. Objective 6: Security System Design and Configuration Consultation

The Contractor shall provide security system(s) design consulting services including but not limited to, networking, storage, Intrusion Detection/Prevention Systems, routers, switches, firewalls, logging, physical security systems and server security configuration.

l. Objective 6 Deliverables:

i. System Specifications: detailed system specification documents and diagrams; and

ii. Any additional deliverables as defined in the SOW.

m. Contractor must provide all software tools required to perform the tasks and deliverables as defined in the State's SOW. All costs associated with software tools must be included in the Consulting Services Hourly Rates listed in Section C.3. The State will not pay separate costs for software tools.

A.10. Procedures/Stipulations for Providing Consultants.

a. Statement of Work.

The State will provide the Contractor with an SOW describing the requested services, including as follows.

i. Project number, which will be used to track the services through completion;

ii. Description and scope of the requested services including the specific information security and other state standard technologies involved and any special data handling due to issues such as confidentiality;

iii. Requested project timeframe and any non-standard work schedule tasks;

iv. Deliverable(s);

v. Work location;

vi. State Project Coordinator; and

vii. Deadline for the Contractor to respond to the State's request (i.e., response period), which will be no more than ten (10) business days measured from the date the SOW was distributed.

b. Submission of Project Proposal.

The Contractor may seek written or verbal clarifications regarding the SOW during the response period. If deemed necessary by the State, the SOW may be modified to clarify its intent and to adjust the response period accordingly.

Within the requested response period, the Contractor will respond to the SOW with a Project Proposal that includes the following:

i. Project number from the SOW;

ii. Contractor understanding of the work to be performed;

- iii. Workplan, including a project timeframe, tasks, and resource loading;
- iv. Staffing plan, specifying the Consultant Classifications from Contract Section C.3 needed for the project and the hours required for each Consultant Classification;
- v. Maximum project consultant cost, which the Contractor shall calculate by using the payment rates per hour set forth in Section C.3.b. for each Consultant Classification needed for the project. If the project timeframe spans more than one year of the Contract term, the Contractor must calculate the maximum project consultant cost using the payment rates for every effective year. In other words, if the project begin and end dates lie completely within year one of the Contract term, the Contractor would calculate maximum project consultant cost using the payment rates for that Contract year. On the other hand, if the dates begin in Contract year one and extend into any portion of Contract year two, the Contractor must calculate the maximum project consultant cost using the payment rates for both years based on the dates in the Workplan. The same rule would apply for all contract years; the maximum project consultant cost must be calculated using the payment rates for the effective years. This maximum project consultant cost shall be a “not to exceed” total cost; the State shall pay no more than this cost for the consultant cost for the project, unless amended in the resulting MOU as described in Contract Section A.10.e; and
- vi. Any Contractor assumptions on which the Project Proposal are based. These assumptions cannot conflict with the terms and provisions of the Contract. In the event of a conflict, the Contract will prevail.
- c. State's Right to Reject Project Proposals. The State has the sole discretion to accept the Contractor's Project Proposal, request modifications to the Contractor's Project Proposal, or to reject the Contractor's Project Proposal in its entirety.
- d. Contractor Must Respond to All SOWs. The Contractor must respond with a viable Project Proposal for every SOW released by the State under this Contract. Failure to respond to an SOW may result in the assessment of liquidated damages, as described in A.11.e.i.(1) below, and/or the State may deem the Contractor to be in Breach of Contract.
- e. Memorandum of Understanding.

After the State has approved the Project Proposal, it will develop, using the State-approved Memorandum of Understanding format, an MOU, which the Contractor must sign, to bind the Contractor to its Project Proposal for the associated SOW.

The State will provide a copy of the fully executed MOU, containing signatures from the Office for Information Resources and the Contractor, to the Contractor. Receipt of a fully executed MOU authorizes the Contractor to provide the requested services and the Contractor consultants to begin work. The State will not be liable to pay the Contractor for any work performed prior to the Contractor's receipt of a fully executed MOU.

- f. Memorandum of Understanding Tracking and Amendment.

The MOU will fix the maximum amount of money to be paid in compensation on a particular SOW. This amount cannot be exceeded without an MOU amendment. Such an amendment, if deemed necessary by the State, would increase the maximum potential compensation due the Contractor for the requested services. The Amendment will require the same signatures as the original MOU.

For each MOU, the Contractor will track the expenditures against the MOU Maximum Compensation, and will inform the State when expenditures are nearing either cap. If insufficient funds are remaining in the amount to complete the project, the Contractor will

provide the State with a revised Project Proposal for completion of the project. The revised Project Proposal will include the same information requested in the original Project Proposal (see Contract Section A.10.b.), updated as needed to complete the project. It must also detail the reason(s) additional funds are required. The State, at its sole option, will either amend the MOU Maximum Compensation to accommodate completion of the project, in part or in whole, or direct the Contractor to cease work on the project.

A.11. Contractor Consultant Performance and Replacement.

- a. The Contractor shall select the Consultants to perform the services requested in the SOW. The State shall be the sole judge of the quality of services provided and the project progress achieved by the Contractor's consultants. The Contractor agrees to remove and replace at the Contractor's expense, consultants whom the State judges to be incompetent, careless, unsuitable or otherwise objectionable, or whose continued use is deemed contrary to the best interests of the State or deemed not to make substantial contributions to the project. The Contractor agrees not to charge the State for services performed which the State designates as being unacceptable.

This provision will not be deemed to give the State the right to require the Contractor to terminate any Contractor employee's employment. Rather, this provision is intended to give the State only the right to require that the Contractor discontinue using an employee in the performance of services for the State.

- b. At the State's request, the Contractor will replace an individual that has voluntarily withdrawn or that the Contractor has voluntarily removed from State assignment. Any requirement for such replacement will be at the State's sole discretion; the State is not obligated to accept replacement of removed or withdrawn consultants. The State will compensate the Contractor for acceptable services completed by the consultant prior to voluntary withdrawal or removal.
- c. If the State requests a replacement as described in Contract Sections A.11.a. and A.11.b., the Contractor will replace the consultant with a consultant of equal or greater years experience as the consultant proposed in the associated Project Proposal for the MOU. The Contractor will be compensated for the replacement consultant at the rate established for the original consultant.
- d. The termination of an individual consultant's assignment will not necessarily result in the termination of the MOU related to that consultant.
- e. The State values contractor timeliness, availability, quality and continuity of work product over the term of the contract. Failure to consistently provide services that uphold these values may cause harm to the State's progress toward assuring a secure, reliable and robust technology environment.
- i. In order to encourage adequate Contractor performance, the State may assess damage amounts, to be paid by the Contractor to the State, in the event of the Contractor's failure to perform, as follows:

Metric	Damage Assessment Amount
(1) <u>Availability of Qualified Staff</u> – Failure by the Contractor to provide qualified staff, as requested on the SOW, more than once per contract year.	\$1,000.00 per each failure event greater than one (1) during any given Contract year.

(2) <u>Timeliness of Audit Deliverables</u> – Failure by the Contractor to submit quality deliverables, in a timely manner, thereby causing the State to miss an audit filing deadline.	The actual amount of any fine assessed by the Payment Card Industry, up to \$25,000 per month.
(3) <u>Quality of Work</u> – Failure by the Contractor to submit work products that are complete and substantially error free. “Complete and substantially error free” means that documents must be: (1) free of grammatical and formatting errors; (2) free of technical errors; (3) able to demonstrate technical competency commensurate with both the cost and level of the assigned worker(s) within the SOW (e.g. the State reserves the right to deem incompetent any work product produced by an "Information Security Assessor/Penetration Tester IV" if the State has credible evidence or experience that supports this disposition); and (4) completely addresses the SOW and its intended purpose.	For any given SOW: 1 st failure event: correct all errors/discrepancies in the deliverable(s) and resubmit them, at no additional cost to the State. Work to correct the failure must begin within two (2) weeks of the State’s disposition. 2 nd and subsequent failure event(s), associated with the same SOW: \$3,000 per each failure event. Provided, however, that if the failure affects audit compliance [see A.11.e.i.(2) above], those damages may also apply.
(4) <u>Continuity of Work</u> – Failure by the Contractor to maintain sufficient record keeping with regard to the Contractor’s work to allow the State or a third-party to use this work as a basis for future audits dealing with the same or a similar security issue.	\$1,000 per each failure event.

- ii. The damage assessments detailed above shall not apply if the Contractor demonstrates, and the State agrees, that the Contractor’s failure to perform is the result of a failure on the part of the State to fulfill its obligations with regard to the work in question.
- iii. In the event that damages are assessed, the Contractor’s payment to the State may be in the form of a credit against any amount owed by the State to the Contractor, or direct compensation to the State, at the State’s sole discretion.

A.12. Miscellaneous Policies and Procedures.

- a. The State will not provide parking for Contractor consultants.
- b. Contractor consultants do not have access to the State clinic.

A.13. Information Security Compliance.

Contractor warrants to the State that it will cooperate with the State in the course of performance of the Contract so that both parties will be in compliance with State of Tennessee’s Enterprise Security Policies requirements and any other State and federal computer security regulations including cooperation and coordination with the State’s Office for Information Resources Security Management Team and other compliance officers required by its regulations. The Enterprise Security Policies can be found on the State’s public website at:

<http://www.state.tn.us/finance/oir/security/secpolicy.html>

A.14. State's Technical Architecture.

Contractor consultants shall provide the services required by this RFP within the context of the technical environment described by the *State of Tennessee Enterprise Architecture* (the "Technical Architecture"). See Contract Attachment B.

A.15. Periodic Meetings.

The State reserves the right, at the State's option, to request periodic meetings with Contractor management staff to discuss topics including, but not limited to, the following: general project direction, management, and coordination; State technical infrastructure and standards; SOW Clarifications; and time keeping and other project progress records. These meetings shall occur at a State location or via conference call as agreed to by the parties and shall be at no additional cost to the State.

A.16. Command and Data Retention

The Contractor shall retain the data that they provide to the State and the methodology used to collect it for one year for comparative analysis of the same environments. The data values that the Contractor is required to retain are detailed in the "Assessment Export File Specification" document, which will be attached to the associated SOW. This specification is subject to change at the State's discretion and may be unique for a given SOW. The State will provide to the Contractor the most current version of the Assessment Export File Specification as modifications become necessary.

A.17. Provision of Service to Non-State Participants

At the State's request and under the State's direction, the Contractor shall provide the services described in this Contract to third parties, including federal and local government, K-12, and higher education institutions (collectively, "Non-State Participants").

The State will compensate the Contractor for services performed for Non-State Participants using the hourly rates in Contract Section C.3.b.

B.1. **CONTRACT PERIOD:**

This Contract shall be effective for the period beginning September 12, 2011, and ending on September 11, 2014. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

- B.2. Term Extension. The State reserves the right to request an extension to this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of a contract amendment signed by both parties. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment signed by both parties, and shall be based upon payment rates provided in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Written Dollar Amount (\$Number). The payment rates in Section C.3 and the Travel Compensation provided in Section C.4 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the

difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. **Compensation Firm.** The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates. The payment rates for Years 4 and 5 shall only apply if the Contract term is extended pursuant to Section B.2 above:

Service Description	Amount (per compensable increment)				
	Year 1 09/12/11 – 09/11/12	Year 2 09/12/12 – 09/11/13	Year 3 09/12/13 – 09/11/14	Year 4 09/12/14 – 09/11/15	Year 5 09/12/15 – 09/11/16
Information Security Assessor / Penetration Tester - I	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Information Security Assessor / Penetration Tester - II	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Information Security Assessor / Penetration Tester - III	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Information Security Assessor / Penetration Tester - IV	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security Program Assessor - I	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security Program Assessor - II	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security Program Assessor - III	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security Program Assessor - IV	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Data Loss Prevention (DLP)	\$ Number	\$ Number	\$ Number	\$ Number	\$ Number

Service Description	Amount (per compensable increment)				
	Year 1 09/12/11 – 09/11/12	Year 2 09/12/12 – 09/11/13	Year 3 09/12/13 – 09/11/14	Year 4 09/12/14 – 09/11/15	Year 5 09/12/15 – 09/11/16
Consultant - I	per Hour	per Hour	per Hour	per Hour	per Hour
Data Loss Prevention (DLP) Consultant - II	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Data Loss Prevention (DLP) Consultant - III	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Data Loss Prevention (DLP) Consultant - IV	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Forensic Investigator - I	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Forensic Investigator - II	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Forensic Investigator - III	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Forensic Investigator - IV	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security System Design Engineer/Architect - I	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security System Design Engineer/Architect - II	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security System Design Engineer/Architect - III	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Security System Design Engineer/Architect - IV	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Incident Response Consultant - I	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Incident Response Consultant - II	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Incident Response Consultant - III	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour
Incident Response Consultant - IV	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour	\$ Number per Hour

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.

C.4. **Travel Compensation.** Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time. The total amount of Travel Compensation to the Contractor during the term of this Contract shall not exceed \$Number, without amendment.

The Contractor must include (in addition to other invoice requirements of this Contract) a

complete itemization of travel compensation requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations."

- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Jason Gunnoe CISSP, RHCE
Chief Information Security Officer
Department of Finance and Administration
Suite # 1600, Snodgrass TN Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice Number (assigned by the Contractor)
 - (2) Invoice Date
 - (3) Contract Number (assigned by the State)
 - (4) Customer Account Name: Department of Finance and Administration, Office for Information Resources
 - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
 - (6) Contractor Name
 - (7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
 - (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
 - (9) Contractor Remittance Address
 - (10) Description of Delivered Service
 - (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period
- b. The Contractor understands and agrees that an invoice under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) only be submitted for completed service and shall not include any charge for future work;
 - (3) not include sales tax or shipping charges; and
 - (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be

construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
 - a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
 - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to terminate the Contract and withhold payments in excess of fair compensation for completed services.

- a. The State will provide notification of termination for cause in writing. This notice will: (1) specify in reasonable detail the nature of the breach; (2) provide the Contractor with a reasonable opportunity to cure, which must be requested in writing no less than 10 days from the date of receipt of the Termination Notice; and (3) shall specify the effective date of termination in the event the Contractor fails to correct the breach. The Contractor must present the State with a written request detailing the efforts it will take to resolve the problem and the time period for such resolution. This opportunity to "cure" shall not apply to circumstances in which the Contractor intentionally withholds its services or otherwise refuses to perform. The State will not consider a request to cure contract performance where there have been repeated problems with respect to identical or similar issues, or if a cure period would cause a delay that would impair the effectiveness of State operations. In circumstances where an opportunity to cure is not available, termination will be effective immediately.
 - b. Notwithstanding the foregoing, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
 - a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, hereto, semi-annually during the period of this

Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.

- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401, *et seq.*
- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

- D.14. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, **fiduciaries**, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all taxes applicable to it incident to this Contract.

- D.15. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.16. Force Majeure. **The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' reasonable control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.**
- D.17. State and Federal Compliance. **The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of its work under this Contract.**
- D.18. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.19. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.20. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Jason Gunnoe CISSP, RHCE
 Chief Information Security Officer
 Department of Finance and Administration
 Suite # 1600, Snodgrass TN Tower
 312 Rosa L. Parks Avenue
 Nashville, TN 37243
 jason.gunnoe@tn.gov
 Telephone # (615) 253-5028
 FAX # (615) 532-0471

The Contractor:

Contractor Contact Name & Title

Contractor Name

Address

Email Address

Telephone # Number

FAX # Number

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. The Contractor shall maintain, at minimum, the following insurance coverage:
- (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
 - (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, insured contracts

and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

- b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

- E.6. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.7. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.8. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created,

designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.

- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
- b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
- c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
- d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.

E.9. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.

- a. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);
- b. the Memoranda of Understanding (MOUs) and their associated Statements of Work (SOWs)
- c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
- d. the State solicitation, as may be amended, requesting proposals in competition for this Contract;
- e. any technical specifications provided to proposers during the procurement process to award this Contract;
- f. the Contractor's proposal seeking this Contract.

E.10. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

- E.11. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's proposal responding to RFP-31701-03054 (RFP Attachment 6.2, Section B, Item B.15) and7 resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Diversity Business Enterprise in form and substance as required by said office.

- E.12. Limitation of Liability. The parties agree that the Contractor's liability under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in section C.1. and as may be amended, PROVIDED THAT in no event shall this section limit the liability of the Contractor for intentional torts, criminal acts, or fraudulent conduct.

- E.13. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

- E.14. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this Contract, these items shall hereinafter be referred to as a "Breach."

- a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

- (1) In event of a Breach by Contractor, the State shall have available the remedy of Actual Damages and any other remedy available at law or equity.
- (2) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. The Notice of partial default and termination of services associated with the breach shall advise the Contractor whether there is an opportunity to cure or if the State has determined under Section D.4 that an opportunity to cure is not applicable. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken.

- (3) **Contract Termination**— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice shall advise the Contractor whether there is an opportunity to cure or if the State has determined under Section D.4 that an opportunity to cure is not applicable. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. **State Breach**— In the event of a Breach of Contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

- E.15. **Partial Takeover.** The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as

of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.16. Disclosure of Personal Identity Information. The Contractor shall report to the State any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the instance has come to the attention of the Contractor. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION:

MARK EMKES, COMMISSIONER

DATE

ATTACHMENT A**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

ATTACHMENT B

**STATE OF TENNESSEE ENTERPRISE ARCHITECTURE
(TECHNICAL ARCHITECTURE)**

To follow this page.

[AFTER THE CONTRACT AWARD IS MADE AND PRIOR TO THE APPROVAL PROCESS, THE STATE
WILL INSERT A COPY THE VERSION OF THE TECHNICAL ARCHITECTURE THAT WAS FROZEN
DURING THE PROCUREMENT PROCESS,]

ASSESSMENT EXPORT FILE SPECIFICATION

This assessment export file is to facilitate transfer of data from reports to a database.

The file should be in a non-proprietary format, such as CSV, with the delimiter characters escaped or quoted when they occur inside fields.

Field	Explanation, examples
Assessment Identifier	A number or string to uniquely identify the assessment, such as the project number (DC57-Apr09-1)
Issue Identifier	H1, M3, L1, N1
Category	Critical, High Risk, Medium, Low Risk, Note
Difficulty of exploit	Low to High
Date discovered	
Issue Title	"PHP Multiple Remote Vulnerabilities" or "Application Susceptible to SQL Injection"
External IP address	
Internal IP address	If known or returned in testing
Application name	If applicable
Application URL	If applicable
Agency name	If known
Domain name	If known
Machine name	If known or returned in testing
Host-specific notes	Data specific to this host/application where multiple hosts appear on the report; such as software versions, ports, specific pages, CVE references

Issue descriptions and recommendations/fixes tend to be lengthy, complex text with tables and graphics that do not lend themselves to importation. In a separate file, or the assessment report itself, provide the detailed issue descriptions and recommendations/fixes in a format that is "join-able" to the individual issues either by Issue Identifier or Issue Title.

**DRAFT MEMORANDUM OF UNDERSTANDING
BETWEEN THE
STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
AND
CONTRACTOR LEGAL ENTITY NAME
FOR
PROJECT #####**

This agreement, by and between the State of Tennessee, Department of Finance & Administration, Office for Information Resources, hereinafter referred to as the "State" and **CONTRACTOR LEGAL ENTITY NAME**, hereinafter referred to as the "Contractor" is as follows:

The Contractor understands and agrees that this Memorandum of Understanding (MOU) is governed by the provisions of Department of Finance and Administration Contract Number **FA-##-####-##**, hereinafter referred to as the "Master Contract". In the provision of services pursuant to this MOU, the Contractor will conform to these provisions in their entirety.

The Contractor will provide the services as described in this MOU and its Addenda, Statement of Work and Project Proposal, which are attached hereto. In the event of a conflict between the MOU (and its Addenda), and the Master Contract, the documents shall govern in the order of preference given in the Master Contract.

This MOU shall be effective for the period commencing on **DATE** and ending on **DATE**, unless amended.

In no event shall the maximum liability of the State under this MOU exceed **\$AMOUNT**, unless amended. For the services provided pursuant to this MOU, the maximum liability amount shall constitute the entire potential compensation due the Contractor for the services and all of the Contractor's obligations hereunder regardless of the difficulty, or materials or equipment required.

The Contractor shall be compensated and invoices submitted in accordance with the provisions of the Master Contract.

The State may, at any time and for any reason, terminate this MOU in accordance with the provisions of the Master Contract. **Termination of this MOU does not necessarily mean that the State will terminate the Master Contract.**

This agreement may be modified only by a written amendment which has been executed and approved by the appropriate State officials as indicated below:

MOU Signatures:

CONTRACTOR LEGAL ENTITY NAME

NAME AND TITLE OF CONTRACTOR SIGNATORY

DATE

DEPARTMENT OF FINANCE AND ADMINISTRATION, OFFICE FOR INFORMATION RESOURCES

NAME AND TITLE OF STATE PROJECT COORDINATOR	DATE
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JASON GUNNOE, CISO	DATE
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